TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~330~~ 171

THE STEAM-PROPELLER CORSICA, HER TACKLE, &c.; THE BRITISH AND NORTH AMERICAN STEAM-PACKET COMPANY, CLAIMANTS, APPELLANTS,

vs.

SAMUEL SCHUYLER.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED DECEMBER 17, 1869.

SUPREME COURT OF THE UNITED STATES.

No. 386.

THE STEAM-PROPELLER CORSICA, HER TACKLE, &c.; THE BRITISH AND NORTH AMERICAN STEAM-PACKET COMPANY, CLAIMANTS, APPELLANTS,

vs.

SAMUEL SCHUYLER.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

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1 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms in the city of New York, on Monday, the ninth day of March, in the year of our Lord one thousand eight hundred and sixty-eight:

Present, the Honorable Samuel Blatchford, dist. judge.

SAMUEL SCHUYLER
vs.
THE STEAM-PROPELLER CORSICA, HER ENGINE, tackle, &c. } 19—264.

1865, October 7th.—The libellant files his libel against the steam-propeller Corsica, her engine, tackle, &c., in the words and figures following, to wit:

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3 To the Honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York:

The libel and complaint of Samuel Schuyler, owner of the steamer America, against the steam-propeller Corsica, her engine, tackle, apparel, and furniture, whereof Le Mesurier now is or late was master, and against all persons lawfully intervening for their interest in said steam-propeller "Corsica," in a cause, civil and maritime, of damage by collision, and thereupon this libellant alleges and articularly propounds as follows:

First. That this libellant, before and at the time of the injury and damage hereinafter alleged, was, and ever since has been, the sole owner of the said steamboat "America," her tackle, apparel, and furniture, which was at that time a staunch and well-built vessel of the burthen of four hundred and seventy tons or thereabouts, and was sufficiently provided with tackle, apparel, and furniture, and with a full compliment of hands to navigate her.

Second. That said steamboat America, on the ninth day of
4 September, 1865, had arrived in New York, on a trip from Albany, with a number of barges and boats in her tow, and proceeded round the Battery, at the southerly end of the city of New York, into the East River, to leave the barges and boats in her tow which were bound for piers on the New York side of East River lying east of the said Battery, and after having left said boats, said steamboat America came round again into the North River, proceeding off the south end of the Battery, bound for a pier at Jersey City, on the west side of the Hudson River, below the wharf of the Cunard steamers at Jersey City, where said steamboat usually lays to take in fresh water and coal, and until starting again for her return trip to Albany in the business of towing boats and barges between New York and Albany, in which she was engaged.

That when off south of Castle Garden, so called, said steamboat was stopped to haul in the hawsers with which the boats astern of said steamboat had been towed before leaving them as aforesaid in the East River, and then started ahead on a course across the river, bound for
5 said pier at Jersey City, and was proceeding on a course across the river somewhat to the southward of a direct line to said pier to clear vessels lying at anchor on the west side of the river from about

the ferry at Jersey City southward, when the said steam-propeller Corsica was observed from said steamboat America further up the river than said steamboat and on a course down the river, and as she proceeded on that course, when within a short distance higher up the river than the America was, said steam-propeller was nearer to the Jersey shore than said steamboat America, and on a course to pass across the line of direction of said steamboat America at a safe distance if it had been continued. That thereupon, to avoid all danger of a collision, the bells of the America were rung to slow and to stop, and to bells to back, and her engine was slowed and stopped and backed, and said steamboat was stopped in the water and had stern-way, when the course of the said propeller was changed by a sudden sheer to eastward* from a very short distance above the America, and so as to run said steam-propeller
6 against and into said steamboat America with great force and violence, the sharp stem of said propeller on said sheer striking against the starboard side of the America, between her forward gangway and the starboard wheel, cutting into said guard and carrying away part of the guard-beams and wheel-beams, and bringing up against the shaft of the wheel, breaking the wheel flanges and the shaft in the inboard journal, the pillow blocks of the inboard journal, bending the crank pin, and breaking the suspension and gallows frame, and wracking the whole boat amidships, and doing other damage to said steamboat America. That at the time said propeller came into the America, she was forging ahead at the rate of seven to eight knots an hour, while said steamboat America, after having been stopped in the water, was backing. After the boats got clear, what could be done was done on the America to right her up and lift her port guard out of the water; and other measures taken to keep the America from sinking, and for her safety had been taken, the America was towed in on the flats at Jersey City, in shoal water, just above the new ferry-dock, where she remained from Saturday, Sept. 9th, 1865, the day of collision, to
7 Monday following, when she was taken to Red Hook for repairs, where she still is undergoing repairs.

That said collision happened on Saturday, 9th September, 1865, at about one o'clock p. m., in broad daylight. That the tide was flood—towards the last of the flood—the wind easterly, but not much of it. There was nothing in the way to prevent said steam-propeller from proceeding on her course, or from sheering so as to pass the America to eastward from a point at a proper distance above the America, if she had chosen to do so, or from stopping and reversing her engine in season to avoid the collision.

That the immediate cause of the collision was a change of direction of the steam propeller to eastward from a point so near that the America could not get away from her either way; and the said collision, and the damage arising therefrom to the America, was caused solely by the mismanagement, negligence, or fault of said steam-propeller Corsica, her master and pilot, or persons in charge of and navigating her, either in
8 not keeping a good look-out, or in not sheering to eastward to pass the America under her stern from a point higher up the river, or not keeping on the course she was on at the time she changed her course, immediately before the collision, or stopping her engines and reversing, as it was her duty to do seasonably.

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* The word westward erased and the word "eastward" substituted therefor by written consent of the proctor for claimants, filed in court, October 14th, 1865.

GEO. F. BETTS, *Clerk.*

That this libellant has not been able to complete the necessary repairs to said steamboat America, but from repairs already made and the estimate of cost of repairs which said steamboat is now undergoing, and the time required to complete them, and according to the best information and belief of the libellant, the damages to this libellant, as the owner of said boat, from said collision, exceed the sum of fourteen thousand dollars for necessary repairs, and the further sum of twelve thousand dollars for the loss of the use of said steamboat while undergoing necessary repairs, besides the further damage of depreciation in the value of said steamboat by the extent of the injury to the frame-work amidships, and the frame-work, including the gallows frame and other frame-work supporting parts of the machinery, in all amounting to the sum of forty-one thousand dollars.

9 Fourth. That this libellant has made application to the agents of said steam-propeller Corsica for payment on settlement of said claim for damages, but said agents have declined to come to any settlement, or to make any arrangement for the payment or settlement thereof.

That said steam-propeller is a foreign ship, and owned by foreign owners, as this libellant is informed, who are unknown to the libellant, and is now about leaving the waters of the United States; and that without the arrest of said ship, this libellant may be without recourse for his said damages.

Fifth. That said steam-propeller Corsica is now within the southern district of New York; that the allegation herein contained in regard to the circumstances of said collision, and the damages arising therefrom, are stated upon the information and belief of this libellant, and the premises are, as this libellant is informed and believes, within the admiralty and maritime jurisdiction of this honorable court.

Wherefore this libellant prays that process in due form of law, according to the course of courts of admiralty, and of this honorable court in cases of admiralty and maritime jurisdiction, may issue against said steam-propeller Corsica, her engine, tackle, apparel, and furni-

10 ture, and that all persons having or pretending to have any right, title, or interest therein may be cited to appear and answer all and singular the matters so propounded; and that this honorable court would be pleased to pronounce for the damages aforesaid, and to decree such other or further relief in the premises as the court is competent to give, and also to condemn said propeller Corsica, her engine, tackle, apparel, and furniture, and all persons intervening for their interest therein, in costs.

SAMUEL SCHUYLER,
By GEORGE GARLICK.

C. VAN SANTVOORD,
Proctor & Advocate for Libellant.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

George L. Garlick, being sworn, says that Samuel Schuyler, the libellant, resides in Albany, out of the southern district of New York, and more than one hundred miles from the city of New York, and is absent from said city; that this deponent is the agent of said libellant in New York and of said boat America; that he has heard said libel read, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be on information and belief, and that as to those matters he believes it to be true.

GEORGE L. GARLICK.

Sworn to before me this 7th day of Oct., 1865.

A. C. WILLMARTH,
Notary Public.

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12 (Indorsed:) U. S. district court, southern district of N. York. 19—264. Samuel Schuyler vs. the steam-propeller Corsica, her engine, tackle, apparel, and furniture. Libel. C. Van Santvoord, proctor for libellant.

Filed Oct. 7th, 1865, 1 p. m.

13 District court of the United States for the southern district of New York.

Filed the seventh day of October, 1865.

Stipulation for libellant's costs, entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court, on the seventh day of October, in the year of our Lord one thousand eight hundred and sixty-five, by Samuel Schuyler against the st.-propeller Corsica, her engine, tackle, &c., for the reasons and causes in the said libel mentioned, and praying that said st.-propeller, &c., may be condemned and sold to pay the demands of the libellant, and the said libellant and Horatio Robert & Asa B. Kellogg, sureties, parties hereto, hereby consenting and agreeing that, in case of default or contumacy on the part of the libellant or his sureties, execution may issue against their goods, chattels, and lands for the sum of two hundred & fifty dollars:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is, bound in the sum of two hundred & fifty dollars, conditioned that the libellant above named shall appear and answer to the cause and to interrogatories, and shall pay all such costs as shall be awarded against him by this court or, in case of appeal, by the appellate court.

SAMUEL SCHUYLER,
By G. L. GARLICK.
HORATIO ROBERTS.
ASA B. KELLOGG.

Taken and acknowledged this 7th day of October, 1865, before me.

JOHN A. OSBORN,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Horatio Roberts & Asa B. Kellogg, parties to the above stipulation, being duly sworn, doth depose and say that he resides in the city of New York, and that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

HORATIO ROBERTS.
ASA B. KELLOGG.

Sworn to this 7th day of October, 1865, before me.

JOHN A. OSBORN,
U. S. Commissioner.

Recorded the 7th day of October, 1865.

GEO. F. BETTS, *Clerk.*

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15 U. S. district court, southern district of New York.

SAMUEL SCHUYLER
vs.
THE STEAM-PROPELLER CORSICA, HER engine, tackle, apparel, and furniture.

I consent that the libellant may amend his libel by substituting the word eastward for westward in the second article on third page of the libel, in the passage "that thereupon, to avoid all danger of a collision, the bells of the America were rung to slow and to stop, and two bells to back, and her engine was slowed and stopped and backed, and said steamboat was stopped in the water and had stern-way, when the course of the said steam-propeller was changed by a sudden sheer to westward," &c., with the same effect as if such amendment was allowed by the court, to correct a clerical error, but without any admission on the part of the claimant of the truth of any part of said allegation.

New York, Oct. 14th, 1865.

D. D. LORD, *Proctor for Cl'm'ts.*
By GEORGE D. FORREST LORD.

16 (Endorsed:) U. S. district court, southern district of New York. 19—264. Samuel Schuyler vs. the steamer-propeller Corsica, her engine, tackle, apparel, &c. Consent to amendment of libel. C. Van Santvoord, proctor for libellant.

Filed Oct. 14th, 1865.

17 U. S. district court, southern district of New York.

SAMUEL SCHUYLER
vs.
THE STEAM-PROPELLER CORSICA, HER engine, tackle, apparel, and furniture.

Process against the steam-propeller is hereby waived upon the undertaking of the claimants to give stipulations for value at forty-five thousand dollars and interest, and for costs, and to appear and answer on or before the 24th day of October, 1865; and I further consent to accept Edward Cunard as the surety proposed by the claimant, as a sufficient stipulation for value as above and for costs, upon his justifying in the sum of fifty thousand dollars, without notice to me, and I hereby waive notice of such justification.

New York, Oct. 7th, 1865.

C. VAN SANTVOORD,
Proctor for Libellant.

18 (Endorsed:) 19—264. U. S. district court, southern district of New York. Samuel Schuyler vs. the steam-propeller Corsica, her engine, tackle, apparel, and furniture. Consent to waive process, &c. C. Van Santvoord, proctor for libellant.

Ent'd order to waive process & enter app'r cl'm't.

Filed Oct. 14, 1855.

19 District court of the United States for the southern district of New York.

Filed the 14th day of October, 1865.

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court, on the 7th day of October, in the year of our Lord one thousand eight hundred and sixty-five, by Samuel Schuyler against the propeller Corsica, &c., for the reasons and causes in the said libel mentioned, and praying that process in rem. issue against the said vessel, &c., and the parties hereto hereby consenting that, in case of default or contumacy on the part of the cl'm'ts or their surety, execution for the sum of two hundred & fifty dollars may issue against their goods, chattels and lands; and whereas, also, a claim has been filed in said cause by E. Cunard:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is hereby, bound in the sum of two hundred & fifty dollars, conditioned that the claimants above named, shall pay all costs and expenses which shall be awarded against them by the final decree of this court, or, upon an appeal, by the appellate court.

E. CUNARD.

Taken and acknowledged this 14th day of Oct., 1865, before me.
JOHN A. OSBORN,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Edward Cunard, party to the above stipulation, being duly sworn, doth depose and say that he resides in the city of New York, & that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

E. CUNARD.

Sworn to, this 14th day of October, 1865, before me.
JOHN A. OSBORN,
U. S. Commissioner.

Recorded the 14th day of October, 1865.
G. F. BETTS, *Clerk.*

20

21 District court of the United States for the southern district of New York. In admiralty.

Filed the 14th day of October, 1865.

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed, on the seventh day of October, in the year of our Lord one thousand eight hundred and sixty-five, by Samuel Schuyler, owner of the steamboat "America," against the steam-propeller "Corsica," her engine, tackle, &c., for the reasons and causes in the said libel mentioned; and whereas the parties in interest have agreed to waive service of process of attachement on the claimants executing stipulations for costs and value, the latter in the sum of forty-five thousand dollars and interest, in lieu of the said steam-propeller being in the custody of the marshal, under the process about to be issued in

pursuance of the prayer of said libel, as appears from said consent now on file in said court; and the parties hereto hereby consenting and agreeing that, in case of default or contumacy on the part of the claimants or their surety, execution for the above amount may issue against their goods, chattels and lands:

Now, therefore, the condition of this stipulation is such, that if the stipulator undersigned shall, at any time, upon the interlocutory or final order or decree of the said district court, or of any appellate court to which the above-named suit may proceed, and upon notice of such order or decree to Daniel D. Lord, esquire, proctor for the claimants of said steam-propeller, &c., abide by and pay the money awarded by the final decree rendered by the court or the appellate court, if any appeal intervene, then this stipulation to be void; otherwise to remain in full force and virtue.

E. CUNARD,
In behalf of the owners of the Corsica.
E. CUNARD.

Taken and acknowledged, this 14th day of October, 1865, before me.
JOHN A. OSBORN,
U. S. Commissioner.

22 SOUTHERN DISTRICT OF NEW YORK, *ss:*

Edward Cunard, part to the above stipulation, being duly sworn, depose and say that he resides in the city of New York, and that he is worth the sum of fifty thousand dollars, over and above all his just debts and liabilities.

E. CUNARD.

Sworn to, this 14th day of October, 1865, before me.
JOHN A. OSBORN,
U. S. Commissioner.

Recorded this 14th day of October, 1865.

23 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-room in the city of New York, on , the 14th day of October, in the year of our Lord one thousand eight hundred and sixty-five:

Present, the Honorable Samuel R. Betts, dist. judge.

THE ST.-PROPELLER CORSICA, her tackle, &c., *ads.* SAMUEL SCHUYLER. } 19—264.

On filing consent to waive process stipulate, signed by C. Van Santvoord, proctor for libellant; and the claimants having executed stipulations for costs and value, the latter in the sum of forty-five thousand dollars and interest; now, on motion of D. D. Lord, esq., proctor for the claimants, it is ordered that service of process of attachment be waived; the stipulation for value to represent the vessel in the above entitled action.

And it is further ordered that the appearance of the claimants be and the same is hereby entered herein.

24 (Endorsed:) Vol. 19, No. 264. United States district court for the southern district of New York; the steam-propeller Corsica,

&c., ads. Samuel Schuyler. Order on bonding. D. D. Lord, proctor for cl'm'ts.

Filed the 14th day of October, 1865.

To the Honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York.

The claim and answer of the British & North American Royal Mail Steam-packet Company to the libel and complaint of Samuel Schuyler, against the steam-propeller Corsica, her engines, tackle, apparel, and furniture, respectfully shows—

First. That the said claimants are the true and sole owners of the said steamer, her engine, tackle, apparel, and furniture; and they pray that the same may be restored to them by order of the court, notwithstanding anything contained in the said libel to the contrary thereof.

Second. And for answer to the said libel and complaint, the said respondents allege that shortly before one o'clock in the afternoon of the said ninth day of September, eighteen hundred and sixty-five, the said steamer Corsica left her mooring at the Cunard wharf, Jersey City, bound on a voyage to , in the island of Cuba; that shortly before starting, a pilot, duly licensed by the commissioner of pilots, and in conformity with acts of the legislature of the State of New York, offered his services to pilot the said ship to sea, by way of Sandy Hook, and the master of the said Corsica accepted his services, as by said acts of the legis-
26 lature he was bound to do, as these defendants are advised and believe; and the said pilot thereupon took the entire control of all movements of the said ship, and every such movement was made entirely by his direction, and not by direction of the officers of said steamer, except in compliance with his orders; and the respondents are advised, and therefore claim and insist, that if the collision alleged in the libel was caused in any way by the manoervres of the said steamer, these respondents are not responsible for the same. Wherefore the respondents pray that the said libel may be dismissed with costs.

Third. And for a farther answer to the said libel, but without waiving their aforesaid plea, these respondents allege that, at the time of sailing on her aforesaid voyage, the said steamer Corsica was in every respect fully manned and equipped, and that, after leaving her wharf, she proceeded down the river under a light presure of steam, and at a very slow rate of speed, having at the time proper look-outs stationed on the bow, and her officers at their regular stations on deck to give and transmit orders, and with every possible precaution against collisions, as well as all other accidents.

Fourth. And the respondents allege that when the America was
27 first visible, she was a little east of south from the Corsica, just off her port bow, and just emerging from a crowd of vessels lying at anchor in the river, and heading for the Jersey shore, in a direction south of west, as if to cross the bows of the Corsica. That she was at this time about from the Corsica, and apparently going at full speed.

Fifth. The respondents farther allege that, when the America first became visible, the Corsica's helm was, by direction of the said pilot, at once put astarboard; that if her helm had been ported her course would have been changed in a direction across the bows of the America, and this was impracticable, because of the position of the last-named steamer, and the course she was pursuing; that when the Corsica had changed her course about two points towards the east, the America was seen to have changed her course towards the north, and in the direction

of the Corsica, and thereupon, by direction of the said pilot, the engine of the Corsica was immediately reversed, and her headway was entirely stopped, but the America still continued changing her course towards the north, and ran her starboard paddle-box against the bow of the Corsica, doing some damage to herself, but damaging also the Corsica to an amount not yet fully ascertained, but estimated at over

28 Sixth. And the respondents say that they have no knowledge of the facts alleged in the libel, except as they are hereinabove admitted; but they deny that the collision occurred by reason of any mismanagement on the part of the officers and crew of the Corsica; and they pray that the said libel may be dismissed with costs.

E. CUNARD, *Agent.*

UNITED STATES OF AMERICA,
Southern District of New York, ss:

Edward Cunard, being duly sworn, saith that he is agent of the British and North American Royal Mail Steam-packet Company; and that he has read the foregoing claim and answer, and knows the contents thereof; and that the same is true of his own knowledge, except as to matters therein stated on information and belief, and as to those matters he believes it to be true.

E. CUNARD.

Sworn to before me this 18th day of November, 1865.

PATRICK HOGAN,
Notary Public.

(Endorsed:) 19—264. U. S. district court, southern district of New York. The steam-propeller Corsica, her engines, tackle, apparel, &c., vs. Samuel Schuyler. Claim and answer. D. D. Lord, proctor for claimants.

Filed Nov. 22, 1865.

29 U. S. district court, S. D. of New York.

SAMUEL SCHUYLER
vs
THE STEAMER CORSICA, &c.

Statement of proceedings on the trial of this suit, before Hon. C. L. Benedict, district judge.

1866, March 23.—Cause called; cl'm'ts moved to put off; lib'ts opposed; finally ordered that cause stand reserved.

April 18.—Trial commenced; C. Van Santvoord, for lib'lt; D. D. Lord, for cl'm't.

Evidence for libellant: Joseph Wager, Peter B. Hicks, Wm. A. Van Duzen, John Dillon, Lansing Miller, Israel S. Walcott; Wm. A Van Duzen, recalled; John W. Shook; deposition of Lloyd G. Samson.

19.—Evidence for libellant contin'd: Geo. L. Garlick.

Evidence for respondent: Frederick Le Messurier, Henry J. Ward, Horatio L. McKay, Andrew Finney, John Beam, John Cushman, Joseph Henderson.

Evidence for libellant: Israel S. Walcott, recalled.

July 10.—Evidence for respondents: Deposition of Josiah Johnson, jr., taken May 10, '66; deposition of John J. Woodfine, taken 23 June, '66.

Evidence for libellant: James Hynes, John L. Howell.
12.—Evidence for respondent: Edward Cunard.
Evidence for libellant: James Hynes, recalled.
1867, Jan'y 16 & 17.—Cause summed up & submitted; C. V. S., for lib'l't, & D. D. Lord, for respondent.

30 (Endorsed:) U. S. district court, So. D. of New York. Samuel Schuyler vs. the steamer Corsica, &c. Statement of proceedings in suit. C. Van Santvoord, proctor for lib'l't.

31 U. S. district court.—Before Hon. Judge Benedict.

SAMUEL SCHUYLER
vs.
THE STEAM-PROPELLER CORSICA. } April 18th, 1866.—First day.

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Mr. Van Santvoord read the libel.
Mr. Lord read the answer.

Joseph W. Wagner, a witness on behalf of the libellant, being duly sworn, testified as follows:

Examined by Mr. Van Santvoord:

32 Q. You were second pilot of the America at the time of this collision?
A. I was.
Q. At the wheel?
A. Yes, sir.
Q. What was the name of the first pilot?
A. John W. Shook.
Q. Are you now pilot of the America?
A. No, sir.
Q. Of what boat are you pilot?
A. The Lancer.
Q. That is not in the employ of these parties?
A. No, sir; she is a propeller.
Q. How long had you been second pilot of the America?
A. Since the navigation opened last year.
Q. That is, the season of 1865?
A. Yes, sir.
Q. Had you been pilot of steamboats before that on the Hudson?
A. Yes, sir.
Q. For how long?
A. In this employ, or altogether?
Q. Altogether on steamboats.
A. About ten years.
Q. And before that what had been your occupation?

A. Captain of a sloop; master of a sloop.
Q. On the Hudson?
33 A. Yes, sir.
Q. Between Troy & New York?
A. Yes, sir.
Q. And had you been pilot on sloops before that?
A. Yes, sir.
Q. What was the business of this America?
A. A tow between Albany & New York.
Q. Do you recollect the date of this collision?
A. Yes, sir.
Q. What was it?
A. The ninth of September, 1865.
Q. Had the America come from Albany on that day?
A. Yes, sir; she arrived in New York on that day, with a tow.
Q. Where had she taken them to?
A. East River.
Q. She left them there?
A. Yes, sir.
Q. Then where did she start for?
A. She started for her coal-dock at Jersey City.
Q. Do you recollect near the foot of what street that is?
A. Sussex street, I think it is.
Q. Where is it in reference to the Cunard steamers' dock?
A. One pier below to the south of it.
Q. It is an intermediate short pier?
A. Yes, sir.
34 Q. The second pier below counting the short pier?
A. Yes, sir; counting the short pier.
Q. What did you do when off south of Castle Garden?
A. Stopped the steamboat to pull in the hawsers that we towed the boats down on?
Q. The lines with which you towed the boats aft?
A. Yes, sir.
Q. After you had stopped hauling in those lines, where did you start for?
A. We started for Sussex street to the coal-dock.
Q. What was your course from that point?
A. I don't know; I suppose about west.
Q. What was your course in reference to this dock; did you make a straight course for the dock?
A. No, sir.
Q. How was it?
A. I was going to the southward of the dock; steering southward of the dock.
Q. Southward of a direct line from the dock?
A. Yes, sir.
Q. What was the reason of that?
A. There are always so many vessels laid to at anchor abreast of our dock.
Q. Inside?
A. Inside of where we are.
Q. In what way did you intend to come into that dock?
35 A. To go below those vessels; it was ebb-tide in there, and I wanted to come ahead up, and go below those vessels and go inside of them, rather than go up to the ferry and back down. It bothers the ferry-boat to go up above the ferry and back down.

Q. You could not have gone above them without going up to the Jersey City ferry?

A. No, sir.

Q. The ferry that you last referred to; that is, the ferry at the foot of Montgomery street?

A. Above Cunard.

Q. Did you see the Corsica before the collision?

A. Yes, sir.

Q. How were you steering at the time that you saw the Corsica?

A. I was steering in the same course across the river, to the southward of our dock.

Q. And how was she coming?

A. Straight down the river.

Q. Did you continue then on that course, or how was that?

A. I did a little ways, till I seen it was risky; I thought of crossing her bow.

Q. Was she still keeping her course?

A. Yes, sir.

Q. Straight down?

A. Yes, sir.

Q. What did you do?

36 A. I slowed the America, and stopped her and backed her.

Q. When you say you slowed and stopped the America, I suppose you mean you rung the bell to slow and stop?

A. Yes, sir, and backed her, and rung the [the] bell to stop her, after I had killed her way; she had started astern a little to let the Corsica go.

Q. The signals were obeyed, and she did stop in the water?

A. Yes, sir.

Q. After the headway was stopped, you say you rung the bell to stop backing?

A. Yes, sir.

Q. Whs that done with a view to let her continue on her course?

A. Yes, sir.

Q. When the America had stopped her headway, what then?

A. I tried to stop the engine from backing again to let her lie in the water.

Q. What was the Corsica doing?

A. Then I observed the Corsica, and I heard some one holloa, "Starboard, hard astarboard," and observed her sheering to the east; that was after I stopped our engine.

Q. After your heading had been stopped in the water?

A. Yes, sir.

37 Q. Then you heard what?

A. Some one on board the propeller sung out, "Hard astarboard," and waived his hand to some one on board, I suppose the man steering.

Q. To some one aft on the Corsica?

A. It was some one forward on the Corsica that sung out.

Q. To whom did he sing out?

A. To some one astern that was steering.

Q. Some one on the Corsica?

A. Yes, sir.

Q. Before you heard this hail on the Corsica to some one aft on the Corsica, "Starboard, hard astarboard," had the Corsica altered her course?

A. Yes, sir.

Q. Before that time she had not altered her course?

No, sir.

Q. Had she stopped her way?

A. No, sir; I could not tell that she had stopped her way.

Q. Did you observe whether she was throwing the water up in front?

A. Yes, sir; I noticed that.

Q. At the time you heard this hail on the Corsica you saw the America's way had been stopped in the water?

A. Yes, sir; I think she had a little stern-way on.

Q. At the time the America's headway was stopped, was there
38 room enough for the Corsica to pass on the course she was going to the west of you?

A. Yes, sir.

Q. Was there anything in the way?

A. No, sir.

Q. After you rung the bell to stop backing, what then did you observe as to the course of the Corsica?

A. She was sheering to the eastward.

Q. In what direction in respect to you?

A. Steering right towards us then as fast as she sheered.

Q. What did you do then?

A. I rung to back again, went back.

Q. Do you know whether that signal was obeyed?

A. Yes, sir.

Q. Then as you were backing what happened then?

A. The Corsica hit us.

Q. Where?

A. A little aft of her forward gangway, on her starboard side.

Q. What part of the Corsica hit you?

A. Her stem and bluff of the bow hit together.

Q. The stem first, or about the same time?

A. About the same time.

Q. What sort of a blow did it make?

A. It carried away her guard and the wheel-beams, and from there to her wheel.

39 Q. What part of the guard?

A. Aft of her forward gangway.

Q. Did it carry away the guard timbers?

A. Yes, sir; the timbers and her forward wheel-beam—went into her wheel.

Q. What is the size of that wheel-beam?

A. It is fourteen by eighteen, or sixteen by eighteen; somewhere along there.

Q. What is the wheel-beam?

A. It is the main support of the wheel, the guard of the wheel.

Q. There is another wheel-beam on the other side, of the same dimensions, is there not?

A. Yes, sir.

Q. Did she break into the wheel too?

A. Yes, sir, broke into her wheel.

Q. What damage did it do the wheel?

A. Stove it all to pieces.

Q. Where did it bring up?

A. Against the shaft.

Q. On the shaft?

A. Shoved the outboard shaft aft against the after wheel-beam.

Q. Was the shaft split?

A. Split or cracked in the inboard journal.
Q. Did it break that?
A. Yes.
Q. And the inboard pillar blocks?
A. Yes, sir; broke and tore all that side of the pillar blocks.
Q. How many journals are there?
A. Three.
40 Q. Which of them were carried away?
A. They were all carried away?
Q. The outward journal is at the end of the shaft?
A. Yes, sir.
Q. Was the middle journal carried away?
A. Yes, sir.
Q. Was the inboard journal carried away, or mostly broken to pieces?
A. Broken to pieces, ripped.
Q. Until she struck were you in the pilot-house?
A. I got out of the pilot-house just about the time she struck.
Q. Did you observe whether she continued to throw up the water in front up to the time she struck?
A. I guess about the time she struck I looked at her, and the water was coming up over her bow then.
Q. About the time she struck, you say you got out of the pilot-house?
A. Yes, sir; I had just stepped out of the pilot-house when the collision occured; I looked at her as I went to the door.
Q. What did you leave the pilot-house for?
A. I kind a thought I had no business there among the splinters, she have a little deck, and I reconed she would knock the whole deck
41 down, and that the pilot-house would come down.
Q. Was the guard knocked away, a portion of it?
A. Yes, sir.
Q. And dropped?
A. Yes, sir.
Q. What effect had the blow upon the America as to leaning her down?
A. When I got down off the upper deck on the main deck, and from the hurricane deck down below, she had listed over, and the steamship was commencing to back out.
Q. Which way had she listed over then?
A. A little port; as fast as she backed, of course, she listed faster.
Q. As the Corsica backed out, she listed over to port?
A. Yes, sir.
Q. Did you notice whether before that she had listed down to starboard?
A. I did not notice.
Q. You were going out of the pilot-house as she was coming into you?
A. Yes, sir.
Q. Had the backing any effect on the engine?
A. It stopped it from backing.
Q. It stopped the engine of the America?
A. Yes, sir.
Q. Before that, which way was the engine working?
A. Back.
42 Q. That was after you had been stopped?
A. Yes, sir; after we had been stopped the first time.
Q. That is, after you had stopped backing the first time?
A. Yes, sir.
Q. At the time you heard the hail from the man fo rd on the

Corsica to put the helm starboard, I think I understood you to say you had stopped?

A. Yes, sir.

Q. And were stopping in the water?

A. Yes, sir.

Q. And had rung the bell to stop after the first bell?

A. Yes, sir.

Q. How far above you was the Corsica at the time of this sheer to the eastward; I mean, how far up higher than you?

A. She was probably two or three times her length. It is hard to tell on the water. I cannot tell.

Q. Did she sheer quick?

A. Yes, sir.

Q. Did the sheer follow this hail to starboard on the Corsica?

A. Yes, sir.

Q. What was that hail?

A. Starboard, hard astarboard, and waived his hand.

43 Q. And you were backing the second time at the time she hit?

A. Yes, sir.

Q. What caused the collision?

A. Her sheering to the east.

Q. Why could you not get out of the way when you observed the sheer?

A. I done all I could to get out of the way then by backing.

Q. You mean to say it was so short before the collision that you had no time?

A. I had no time to get out of the way then.

Q. How could the Corsica have avoided the collision?

A. Well, she could have avoided it by sheering further up the river, going under our stern, provided she went out as she undertook to.

Q. If she had starboarded a proper distance above?

A. Yes, sir; otherwise she could have backed the propeller's engine, and let the boat go back, or she could have sheered further to the westward, if it was necessary for her to have done so.

Q. How if she had kept on her course?

A. She would have went clear.

Q. Have you been on one-wheel propellers?

A. Yes, sir; I am on one now.

Q. What is the effect on the course of one-wheel propeller of backing, as to her direction?

44 A. When you back a one-wheel propeller, it pulls her stern round one way, and cants her bow the other.

Q. As the Corsica was heading, which way would it throw her bow, and which way her stern?

A. It would have backed her, and thrown her bow to the westward, towards Jersey City. If her wheel is turned astarboard, it will turn port going back.

Q. Was there any such change of the propeller to the westward before she struck?

A. No, sir.

Q. The sheer was to the eastward?

A. The sheer was to the eastward.

Q. And she was on that sheer at the time she came in?

A. Yes, sir.

Q. After this collision, where did you go to?

A. I was towed into the basin above the Central Ferry.

Q. Below?
A. Yes, sir.
Q. On to the flats?
A. Yes, sir.
Q. Was there any change in the course of the America before the collision?
A. No, sir; not any.
Q. How was her wheel kept?
A. About midships; I was steering her steady.
45 Q. The wheel was about midships?
A. Yes, sir.
Q. And so continued, did it?
A. Yes, sir; unless it was backing, it might have varied it. That would not vary her way enough to amount to anything.
Q. If there was any change it was by backing?
A. Yes, sir.
Q. There was no change by the action of the helm?
A. No, sir.
Q. Had you any apprehension of the collision at the time that the America was stopped?
A. No, sir.
Q. There was not anything in the situation that suggested it to you?
A. No, sir.
Q. Was there anything to suggest danger of a collision before the time you heard the hail on the Corsica?
A. No, sir; not that I know of.
Q. Where was Captain Hicks at the time of the collision?
A. He was standing forward, or along side of the wheel-house, down on the upper deck, just before she hit on the starboard side.
Q. Before the collision had you come from any crowd of vessels?
46 A. No, sir.
Q. Were there any vessels that you went between?
A. We went between two.
Q. What vessels?
A. Ships. We went under the stern of one, and crossed the other one's bow at pier one, on the North River.
Q. The ships; were they government vessels?
A. They were two large ships. I guess they were government vessels. I don't know their names.
Q. Where were they?
A. One laid below pier one, and the other one about abreast or a little above; I didn't take no particular notice where they did lie.
Q. How far apart?
A. That I could not tell; how far they lay apart from one another; quite a little piece I know. I went between them.
Q. There were no other vessels except these two?
A. No, sir.
Q. And you passed between them before the collision?
A. Yes, sir.
Q. Between the stern of one and the bow of the other?
A. Yes, sir.
47 Q. Where was the one under whose stern you passed?
A. Below pier one—to the southward of pier one.
Q. Were these vessels at anchor?
A. Yes, sir.
Q. Which way were their sterns?

A. They were swinging; it was pretty near high-water slack; there was a little flood up, just enough to keep.

Q. Sterns up the river?

A. Pretty near.

Q. How far out in the river were they?

A. One-fourth or one-third of the way over; I could not tell for certain; I paid no particular attention to that.

Q. Which side of the middle of the river was the collision?

A. I should judge it was pretty near too a cross.

Q. It was to the westward of the middle of it?

A. Yes, sir.

Q. What time of day was this?

A. It was about one o'clock, I should judge; it might have been a little after it.

Q. What is your estimate of the speed of the America just before she slowed?

A. I should think she was going six miles an hour—I should judge.

48 Q. What is your estimate of the speed of the Corsica at the time she came up?

A. I made up my mind that she was going about seven or eight miles an hour—eight miles; she was coming down a good jog—down the river.

Cross-examined by Mr. Lord:

Q. Was any one with you in the wheel-house?

A. No, sir.

Q. Who else was on deck besides yourself?

A. The captain.

Q. What was his name?

A. Peter Hicks.

Q. Where was he standing?

A. He was standing on the starboard side, on the upper deck, by the pilot-house.

Q. How many decks have you?

A. Three—the main deck, upper deck, and a little hurricane deck, enough to step on.

Q. He was standing on the upper deck?

A. Yes, sir; on the middle deck; just as he wished; that is the way we designate them.

Q. What other men had you on board besides the engineer and fireman?

A. Four deck-hands and the mate.

Q. Where were they standing?

A. I guess some of them were to dinner, and some of them had their dinner.

49 Q. Did you see any of them on deck?

A. There was one man I seen on the forward deck.

Q. What is his name?

A. John Dillon.

Q. Did you see any other men?

A. No, sir.

Q. Then you only saw two men on deck, the captain and John Dillon?

A. The captain and John Dillon.

Q. They were the only men you saw on deck?

A. Yes, sir.

Q. Were you in such a position that you could see forward if there were any other on deck?

A. I could see forward; her upper deck makes out forward so, I could not see about half her forward deck, probably.

Q. Where did the men dine?

A. They dine under her upper deck, in the kitchen.

Q. That is on the main deck?

A. That is on the main deck, on her port side.

Q. Had you had your dinner?

A. Yes, sir.

Q. How long since you had come up from dinner?

A. Well, it was from half to three quarters of an hour probably; we don't all eat together.

50 Q. How many do eat at once?

A. The second engineer and myself; I don't know whether the mate eat that day with me or not—just enough to change watches, you know.

Q. You don't remember whether the mate eat dinner with you or not that day?

A. I swear I could not tell whether he did nor not; no, I could not tell for certain whether the mate dined with us that day or not; it appears to me he did, at the same table I did; I cannot say for certain; I think he did.

Q. Anybody but yourself in the wheel-house?

A. That is all, sir.

Q. When did you first see the Corsica?

A. I seen her when she was coming head down; she was below her dock.

Q. How far below her dock?

A. Well, a man could hardly judge how far below the dock.

Q. Where were you when you first saw her?

A. I should judge we were about pretty near in the middle of the river when I saw her.

Q. You had passed between these two vessels?

A. Oh, yes, sir.

51 Q. You got through the vessels before you saw her?

A. Yes, sir; we got through those two vessels before I saw her—before I noticed her, is what I mean.

Q. You were near the middle of the river?

A. Pretty near, I should judge.

Q. Did you know what she was?

A. I knew it was a propeller; I didn't know it was the Corsica, not till afterwards.

Q. Or a sea steamer?

A. Oh, yes, sir; I knew it was not a river boat.

Q. Did you suppose she was a sea steamship?

A. Yes, sir; of course; I made up my mind she was a sea steamer; I could not do otherwise, she was so large.

Q. Did you know what line she was of; whether she was of the Cunard line?

A. No, sir; I knew nothing about it until—I guess it was the next day or towards night of the same day.

Q. Do any steamers except the Cunard line run down that side of the river?

A. That I don't know.

Q. Have you ever seen any steamers but the Cunarders running down that side of the river?

52 A. Well, I have not noticed; I seen steamers go up the river and down the river, but I have not noticed what they were; I didn't notice what the names were—I cannot tell what the names were.

Q. How long after you first saw the Corsica was it that you gave any directions to the engineer?

A. From the time I first saw her?

Q. Yes, sir.

A. Well, it was pretty quick work; I should judge three or four minutes; she was high [a] above us and to the westward of us; I would not undertake to cross her bow, because I had no business to do so; it was not my business to cross her bow; she had the right of way, and I gave it to her.

Q. You suppose she had the right of way?

A. I knew she had the right of way by law for it.

Q. About how were you heading when you first saw them?

A. I could not tell you the course, but we were heading south of our dock—south of Sussex street, I believe it is—but I could not tell you the course; we don't steer by compass on the river here; I could not give the course by compass.

53 But it was a little south of, directly across the river?

A. It was south of Sussex street.

Q. (By the court.) How much south; a block, or two blocks?

A. About half-way of the lower docks and Sussex street, I should judge; I don't know how long the blocks are; we are not running there a great while.

Q. (Respondent.) Suppose the river runs exactly north & south, and then across the river will be just east and west. How many points to the south of west were you steering when you first saw the Corsica?

A. I could not tell you, for I tell you we don't steer by compass; and I would not dare to say how many points, half a point or one point; I might be a great way out of the way; if I was a man that steered by the compass, I could tell you and judge pretty near.

Q. How many points are there in the compass?

A. I cannot answer you that question.

Q. You cannot tell how many points there are in the compass?

A. I cannot for certain; I never steered by compass; that is, to

54 follow it up; we don't calculate to steer by compass on the river; I am no mariner to go to sea, nor nothing of the kind; I follow the North River, and don't steer by compass.

Q. Have you any license as a pilot?

A. Yes, sir.

Q. From whom?

A. From Mr. Wicks.

Q. Who is Mr. Wicks?

A. A custom-house officer; he is the one that gives the licenses.

Q. How did the Corsica strike you; a straight blow, or did she strike a glancing blow?

A. A glancing blow.

Q. How long before the collision was it that you first saw the Corsica?

A. Well, probably it was five minutes; it might have been and might not have been; somewhere along there.

Q. You say you gave the first order to the engineer about three minutes after you first saw her?

A. I said 3 or 4 minutes.

Q. What was that order?

A. To slow the steamboat and stop her, and two bells to back.
Q. Slow, stop, and two bells to back?
A. Yes, sir.
Q. That was a minute or two before the collision?
55 A. Somewhere along a minute—somewhere along there—probably a minute and a half.
Q. About a minute and a half before the collision?
A. Probably that.
Q. And then you gave the first order to slow; and then you followed it up by the order to stop?
A. And back.
Q. And then you followed it up by the order to back?
A. To back.
Q. How do you give the order to slow?
A. One bell.
Q. How do you give the order to stop?
A. One bell.
Q. How do you give the order to back?
A. Two.
Q. How long after you had given the order to back did you give the the order to stop backing?
A. Well, I don't know how many revolutions; I don't know whether she can make a revolution in a second or not.
Q. How long after you gave the order to back did you give the order to stop backing?
A. Well, it might have been half a minute.
Q. How long after you gave the order to stop backing was it that you gave the order to back again?
A. About that length of time.
56 Q. How long after the second order to back did the collision happen?
A. It happened pretty quick—very quick.
Q. Almost immediately?
A. Yes, not right off; but she was not down to us; she had to sheer to come into us, and we were backing away all the time.
Q. You say that the Corsica struck you with the bluff of her bow; which bow was it that her bluff struck you?
A. The starboard bow.
Q. Where were you when the collision happened?
A. I was just stepping out of the pilot-house; it had like to have thrown me off the deck.
Q. Which side of the pilot-house were you?
A. I came out of the port door.
Q. Were there some steps going down to the main deck or not?
A. Two.
Q. Had you got down those steps?
A. Yes, sir; just stepping off the step as she struck.
Q. You say it had liked to have thrown you; how?
A. Like to have jogged me off the deck; it came very close in by her steps.
Q. Is there not a sail there?
A. No, sir.
Q. How near were you to the end of that deck when she struck?
57 I was just stepping off the step. The deck may be three feet from her steps; I cannot exactly tell; I don't recollect; I never measured it.

Q. May it not be less than 3 feet?

A. I could not say for certain whether it was more or less; it might have been more, and it might have been less; I cannot say.

Q. How near did it throw you to the end of the deck?

A. I came down off it, and swung and caught hold of it; that way, and swung my feet on her upper deck.

Q. Did you see the bluff of the Corsica's bowsprit?

A. No, sir.

Q. Who do you say gave the hail to starboard on board the Corsica?

A. I could not say; some one on her deck.

Q. Where was he standing?

A. He was standing forward.

Q. Was he standing on the bridge?

A. He was standing so that I could see him.

Q. But you did not see whether he was on the main deck or on the bridge?

A. I saw him from his waist up.

Q. You saw the whole of him?

A. Pretty near; she has got bulwarks, I suppose.

Q. You saw him motion his hand as well as hail?

A. Yes, sir; I did.

58 Q. Which way did he move his hand?

A. Towards Jersey City.

Q. Is that to starboard?

A. Yes, sir; to starboard.

Q. Is that to starboard?

A. Yes, sir; certainly; coming head down is to starboard.

Q. Have you ever seen a Sandy Hook pilot give directions by his hand?

A. I don't know as I ever saw one give any directions; I'm not acquainted with any of them.

Q. Do you suppose a motion to the right is a motion to starboard or port?

A. It is a motion to starboard.

Q. When you starboard the helm, how does the bow turn?

A. I turns to the east.

Q. Suppose you are going south?

A. He was going south.

Q. Suppose you were going north and you starboard, how does it turn then?

A. It goes to the west then.

Q. When you port, which side does the bow go to, the right or left?

A. It goes to the right when you port; the bow turns to the right.

Q. You say you did not notice the America had any list to starboard when she struck?

A. No, sir.

59 Q. Did you notice any list to starboard after she had struck?

A. No, sir.

Q. Did you notice a list to port when she struck?

A. Not till after I got down on deck.

Q. But at first you did not notice any list to port?

Q. How long was it after the collision that you got on to her main deck?

A. No, sir; not till I got down on her main deck.

A. Right off; just as quick—I was getting down and the blow helped me down a little.

A. To slow the steamboat and stop her, and two bells to back.

Q. Slow, stop, and two bells to back?

A. Yes, sir.

Q. That was a minute or two before the collision?

55 A. Somewhere along a minute—somewhere along there—probably a minute and a half.

Q. About a minute and a half before the collision?

A. Probably that.

Q. And then you gave the first order to slow; and then you followed it up by the order to stop?

A. And back.

Q. And then you followed it up by the order to back?

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A. One bell.

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A. One bell.

Q. How do you give the order to back?

A. Two.

Q. How long after you had given the order to back did you give the the order to stop backing?

A. Well, I don't know how many revolutions; I don't know whether she can make a revolution in a second or not.

Q. How long after you gave the order to back did you give the order to stop backing?

A. Well, it might have been half a minute.

Q. How long after you gave the order to stop backing was it that you gave the order to back again?

A. About that length of time.

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A. It happened pretty quick—very quick.

Q. Almost immediately?

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Q. Were there some steps going down to the main deck or not?

A. Two.

Q. Had you got down those steps?

A. Yes, sir; just stepping off the step as she struck.

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A. Like to have jogged me off the deck; it came very close in by her steps.

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A. I could not say for certain whether it was more or less; it might have been more, and it might have been less; I cannot say.

Q. How near did it throw you to the end of the deck?

A. I came down off it, and swung and caught hold of it; that way, and swung my feet on her upper deck.

Q. Did you see the bluff of the Corsica's bowsprit?

A. No, sir.

Q. Who do you say gave the hail to starboard on board the Corsica?

A. I could not say; some one on her deck.

Q. Where was he standing?

A. He was standing forward.

Q. Was he standing on the bridge?

A. He was standing so that I could see him.

Q. But you did not see whether he was on the main deck or on the bridge?

A. I saw him from his waist up.

Q. You saw the whole of him?

A. Pretty near; she has got bulwarks, I suppose.

Q. You saw him motion his hand as well as hail?

A. Yes, sir; I did.

58 Q. Which way did he move his hand?

A. Towards Jersey City.

Q. Is that to starboard?

A. Yes, sir; to starboard.

Q. Is that to starboard?

A. Yes, sir; certainly; coming head down is to starboard.

Q. Have you ever seen a Sandy Hook pilot give directions by his hand?

A. I don't know as I ever saw one give any directions; I'm not acquainted with any of them.

Q. Do you suppose a motion to the right is a motion to starboard or port?

A. It is a motion to starboard.

Q. When you starboard the helm, how does the bow turn?

A. I turns to the east.

Q. Suppose you are going south?

A. He was going south.

Q. Suppose you were going north and you starboard, how does it turn then?

A. It goes to the west then.

Q. When you port, which side does the bow go to, the right or left?

A. It goes to the right when you port; the bow turns to the right.

Q. You say you did not notice the America had any list to starboard when she struck?

A. No, sir.

59 Q. Did you notice any list to starboard after she had struck?

A. No, sir.

Q. Did you notice a list to port when she struck?

A. Not till after I got down on deck.

Q. But at first you did not notice any list to port?

Q. How long was it after the collision that you got on to her main deck?

A. No, sir; not till I got down on her main deck.

A. Right off; just as quick—I was getting down and the blow helped me down a little.

Q. How did you get down?
A. I swung down off the hurricane deck.

By the court:

Q. After you saw the Corsica?
A. Yes, sir.
Q. If you had stopped your engine without reversing, how far would she have crossed the bow? The first reverse?
A. If I had stopped the engine?
Q. If you had stopped your vessel, how far ahead of you would she have passed?
A. I don't know; stopped her dead in the water?
Q. Yes, sir.
60 A. She had a little sternway on when I first stopped her.
Q. If she had kept it full ahead of you, how far ahead of you would she have passed your bow?
A. She would have went the length of the America, I should judge.

Peter B. Hicks, a witness on behalf of the libellants, being duly sworn, testified as follows:

Examined by Mr. Van Santvoord:

Q. Were you master of the America at the time of this casuality?
A. Yes, sir.
Q. Had you been pilot before that?
A. Six years pilot; three years pilot of the America, and six years altogether of steamers.
Q. That is before you were master?
A. Yes, sir,
Q. How long had you been master of the America?
A. All last season, from April sometime till the time this occurred.
Q. You saw this collision, did you?
A. Yes, sir.
Q. Where were you standing at the time of it?
A. Forward, on her starboard bow, on her forward deck—her hurricane deck.
Q. Which side of the pilot-house?
A. On the starboard side.
61 Q. That is the time they came together?
A. Yes, sir.
Q. Where had you been before that?
A. Aft, on her hurricane deck.
Q. What had the American done there before you came forward?
A. We had stopped to haul our hawsers in.
Q. Had there been any signals rung before you came forward?
A. The bells were rung to slow, stop; and as they were rung I walked forward. When I came out forward I saw this propeller coming down on a straight line; she was about four to five lengths above us—four lengths, perhaps.
Q. What called you forward?
A. To see what was going on; hearing the bells rung, where I stood aft, I could see this steam-propeller.
Q. You saw her aft?
A. I could see her aft from where I stood.
Q. What was her direction then?
A. On a straight line down the river, about due south.
Q. What was your direction?

A. We were going across the river; we were headed, I guess, about west-northwest. I did not look at the compass.

Q. How in reference to the coal-dock?

62 A. About two piers below Sussex street. I think we headed about two piers below Sussex st., from pier 1.

Q. That is to the southward of Sussex street?

A. Yes, sir; from our coal-dock.

Q. How was the Corsica heading when you came forward?

A. On a straight line.

Q. On a straight line down; the same direction she was heading when you first saw her from aft?

A. Yes, sir.

Q. How was the America heading when you came forward?

A. She was heading, I think—I didn't look at the compass—the same course. We didn't alter our course at all in the least.

Q. The same course she was heading when you first saw the Corsica from aft?

A. Yes, sir.

Q. You say when you came forward your bells had rung to slow and stop?

A. They rung to go back just as I got forward.

Q. Do you know whether those signals were obeyed?

A. Yes, sir.

Q. What effect had they upon the way?

63 A. They stopped the way of the steamboat, leaving her dead in the water. Just as we were left dead in the water they altered their course to the starboard to go under the stern of the America. As I was standing there I saw the man pass the signal from off the propeller's deck from forward, and at the same time I heard him sing out, "Hard astarboard," and throwing his hand to the starboard. I spoke to the pilot, and said, "We are gone; there will be nothing to save us if they undertake to go under our stern." We could not get away and go across her bow.

Q. Was your way stopped in the water at the time of that change of direction in the Corsica?

A. We were dead in the water; our way was stopped.

Q. Before that did you notice whether any quick-water had been thrown up forward of the ~~stern~~ stem of your boat?

A. Yes, sir; it had been thrown up flush with the ~~stern~~ stem, so that you could see it come from under her stern.

Q. At the time that you heard this hail from the Corsica, which boat was nearest to the Jersey shore?

A. The Corsica.

64 Q. How much higher up the river than the America was she?

A. I should think she was about three lengths of the Corsica; perhaps not quite that, as near as I could judge. She might have been a little more than that, or a little less, as near as I could judge.

Q. Did the Corsica change her direction immediately upon your hearing this hail on board of her?

A. Yes, sir.

Q. Which way?

A. They went off to port; they hove her [Q.] hard astarboard.

Q. Which way, by the compass, did it change the bow?

A. To the southward and eastward.

Q. When you saw her changing her direction, what was done on the America?

A. We rung two bells to go back again the second time.
Q. Were you backing at the time?
A. We were backing at the time she struck us.
Q. What part of her hit you?
A. The propeller's starboard bow; it was a kind of a glancing blow.
Q. Did her stem strike you?
A. Yes, sir; struck her heaviest blow on her starboard side.

65 Q. Was the Corsica stopped before the collision?

A. I could not say whether she was or not; all I could judge from was the way she was going through the water; she was going, I should judge, eight or nine knots when she struck us; I could not tell whether she had stopped; we could not see; I noticed the water was coming about a foot up her stem when she struck us; and then I should judge that would take her through the water about 8 or 9 knots.

Q. Do you know whether, before the collision, the bell rung to stop backing on the America after the bells were rung to slow and stop and back?

A. There were four bells rung to slow and stop and back; then we stopped backing, and then we rung two to back again, and she remained backing till she was struck.

Q. When was this hail heard on board the Corsica, and this shear to the eastward; was it after you had rung to stop backing?

A. It was about the same time that she altered her course to go under her stern; it was done about one time.

66 Q. (Respondent.) What was done about the same time?

A. I think the Corsica altered her course to go under our stern as we rung the last time to go back; we were going back as she altered her course—before she altered her course. The bells had been rung before I discovered her going under our stern.

Q. (Resp't.) Then was it after your bell had been rung to stop backing that she began to alter her course, or before?

A. After our bell.

Q. (Resp't.) After your bell to stop backing that she altered her course?

A. Yes, sir.

Q. (Court.) And before you commenced to back again?

A. Yes, sir; or about one time; there was not much difference in the time.

Q. (Libellant). There was not much difference?

A. No, sir; not between the last time.

Q. Before this change in the Corsica, she was heading how?

A. About due south.

Q. Suppose she kept on that course, would she have passed you to the westward; and, if so, how far?

67 A. She would have passed in the length of the America; passed in 300 feet, if she had kept her course right along.

Q. How far above the America was she at the time of this change in the direction of the Corsica?

A. I should judge about three lengths of the Corsica; it might not have been quite as much; as near as I could come at it, I should judge about three lengths.

Q. Were you backing at the time she come into you?

A. Yes, sir.

Q. Where did she first strike you?

A. She struck in about the forward gangway; about 15 or 20 feet of the forward wheel-beam, hard into the guard, and took off three or four

deck-beams and a wheel-beam and deck stairs; some joiners' work, and into the wheels; she worked up into the wheel and went into the shaft; a shaft round against the America's hull.

Q. Did you observe which way the America canted first, or listed?

A. When she first struck us she listed astarboard; as she backed out we went over aport.

Q. What was done on board the America after that?

68 A. All hands turned to to right her up; to get our port-holes out of the water on the port side, to keep her from filling. It carried away everything that was moveable on our starboard side, and we called a tug to tow us in on the flats.

Q. Whereabouts?

A. In the basin there; just about the Central railroad ferry.

Q. Then she was taken to Red Hook?

A. Yes, sir.

Q. What was the time of this collision?

A. Between the hours of 12 & 1; nearer one, I should think.

Q. How was the weather?

A. There was little or no wind; calm and clear.

Q. Was there anything in the way of the Corsica passing down ahead of you?

A. No, sir; the way was clear.

Q. Was there water enough in the westward?

A. Yes, sir.

Q. How could she have avoided the collision?

A. By altering her course to go under our stern, or by starboarding sooner another way—by keeping her course, and keeping on.

69 Q. How large a steamboat was the America?

A. I don't recollect her length now; 280 I think, or 285; I don't recollect her length.

Q. Is it over 200?

A. Yes, sir; I believe it is, or about a little over it; 225 or 230.

Q. What is her tonnage?

A. I have forgotten.

Q. Is it 300 or 400 tons, or about that?

A. I don't recollect her tonnage specifically.

But about what; within 50 or 60 tons?

A. 300 or 400 tons.

Q. What sort of an engine had she?

A. A beam engine.

Q. And a wheel-house on deck?

A. A pilot-house?

Q. Yes.

A. That is on her upper deck—her hurricane deck.

Q. How high from the water?

A. I should judge thirty feet from the water.

Q. Had she a gallows frame aft upon her deck?

A. Yes, sir.

Q. How far could she be seen?

A. Such a day as we had then she could be seen to mile distinctly, or 15.

70 Q. Was there anything in the way to hide you from the Corsica as you were approaching?

A. No, sir.

Q. Did you come out from any crowd of vessels?

A. No, sir.

Q. Were there any vessels?

A. We passed two vessels, one lying off pier one, and one a little above pier one; we went between those vessels, but they were not large to hurt us.

Q. Those vessels were at anchor, were they?

A. Yes, sir.

Q. What vessels were they, national vessels?

A. I believe they were steamships of a smaller class.

Q. How far out on the river?

A. They were about one quarter the way across from pier 1, on the New York side.

Q. Was the America's course changed just before the collision?

A. No, sir.

Q. Did any men come from these vessels on board of the America?

A. They were about 30 came to help us to right our vessel;
71 they manned their boats, and came on board of us, and I guess without their assistance we would have filled; we would not have got her righted quick enough.

Cross-examined by Mr. Lord:

Q. Who was on the deck of your vessel besides yourself and the man at the wheel?

A. Two forward.

Q. What were their names?

A. John Dillon and Charles Adams.

Q. Where were they standing?

A. Standing in the forward gan'way, I believe, looking out forward.

Q. Where were you when you hauled in your hawsers?

A. Under the Battery.

Q. I mean whereabouts on the vessel were you?

A. Aft on the hurricane deck.

Q. You remained there until you heard the bells rung to stop, slow, and back?

A. I remained there until the bells rung to stop; as they were backing I walked forward, and got there just as they commenced backing.

Q. You were near the stern when you heard the bell to slow?

A. Yes, sir.

Q. You had commenced to go forward?

A. Yes, sir.

72 Q. You started then to go forward?

A. Yes, sir.

Q. How far forward had you got when you heard the bell to stop?

A. I was forward when I heard the bell rung to stop.

Q. And then you heard the bell rung to back?

A. Yes, sir.

Q. How long was that after the bell was rung to stop?

A. It might have been perhaps a minute and a half, or a minute, and it might not have been over half a minute—a very short period.

Q. How long after the bell to stop was the bell to go back rung?

A. It might have been perhaps a minute.

Q. How long after the bell to back was rung was the bell to stop backing rung; how long was there between the bell to back and the bell to stop backing?

A. Well, perhaps, a minute and a half.

Q. And how long after the bell to stop backing was rung was it before the bell to back again was rung?

A. That was perhaps a half a minute.

73 Q. How long after that was it that the Corsica ran into you?

A. Well, it could not have been over a minute and a half or two minutes at the outside. She had but a short distance to go.

Q. Did you hear the hail from the Corsica to starboard—hard astarboard—before or after your pilot rang the bell to back again?

A. After we rang the last bell to back, he sang out, "Hard astarboard."

Q. After who rang the last bell to back?

A. To go back he rang two bells, and after we rang them we heard the signal to starboard, and at the same time moving his hand on the forward deck.

Q. And that was just before the collision?

A. Yes, sir.

Q. How long had you been backing when you heard that order on the Corsica?

A. We had made about two turns, about 4 or 5 seconds.

Q. Did you stay where you were forward; were you there when the Corsica struck?

A. She was about 10 feet of us when I walked aft out of the way.

74 Q. She struck you, I understand you to say, a glancing blow?

A. It was heavier on her starboard bow than it was on her stem, if anything.

Q. Which bow did she bring against you?

A. Her starboard bow; her stem struck; she went into us; by striking us that way we crowded to fast. Her stem struck the first blow.

Q. The bluff of which bow came against you?

A. The bluff of her starboard bow came against us.

Q. And as she bluffed against you, you listed to starboard and not port?

A. As the boat struck we went down to the starboard, and as she backed we went over to port again.

Q. She struck you on the starboard side, didn't she?

A. Yes, sir.

Q. Where was it that you told the pilot that nothing could help you; that she was coming into you?

A. When I discovered her altering her course.

Q. You did not tell him that before he rang his bell to back, did you?

A. He had rung his bell to back.

Q. Before you said that?

A. Yes, sir.

75 Q. Where was your vessel when you first saw the Corsica?

A. We were about in the middle of the river.

Q. Had you passed between these two ships that you have mentioned?

A. Yes, sir; we had passed between them.

Q. Don't you know what those vessels were?

A. I don't know; I could not call them by name.

Q. Don't you know they were gunboats?

A. I would not say whether they were or not.

Q. Were you not present during the examination of Mr. Sampson, quartermaster of one of those gunboats?

A. I never saw them. I heard them, but I never saw the man.

Q. You don't know that either of those was a government vessel?

A. No, sir; I don't. I should not say that they were.

Q. How about those 30 men that came to help you, did they have uniforms on?

A. They were dressed in sailors' clothes—blue.

Q. Were they not all dressed in the same color?

A. Pretty much, I think.

76 Q. What sort of a boat did they come in?

A. A black boat. I think those men were off a man-of-war that lay below us.

Q. Have you any doubt that one of those was a man-of-war.

A. I won't be certain whether they were or not; those men that came on board of us to assist us were from a government vessel.

Q. You did not see them go back to their vessel?

A. I didn't notice which vessel they went to. I was there when they away. They asked me if they could do anything for us, and I said not, and they went away.

Q. Before going between those vessels, didn't you go between one of them and the New York shore?

A. No, sir; we came from under the Battery, and went between them.

Q. Before doing so, didn't you go to the eastward of one of them?

A. They lay about abreast, and we entered between them at the one time.

Q. How did they lie?

A. One lay up the river abreast of pier 2, and the other down at pier 1.

Q. And you went between them?

A. Yes, sir.

77 Q. Before going between them, didn't you go behind one of them?

A. No, sir.

Q. Didn't you go between one of them and the New York shore?

A. No, sir.

Q. Didn't you go one of them and the Jersey shore?

A. Yes, sir; the lower one was between us and the Jersey shore.

Q. Then you were between that lower one and the N. Y. shore?

A. This lower one laid over below Jersey as we——

Q. Didn't you go between one of those vessels and the New York shore?

A. Yes, sir; of course, we would leave one on the New York shore.

Q. Didn't you go so that one of those was on your port side as you passed her?

A. Yes, sir.

Q. How does the river run, north and south?

A. I should think pretty near; I don't think it varies much from that.

Q. How were you heading by the compass when you first saw the Corsica?

A. I didn't notice, but I think we were heading about N. S. W. or W. N. W.

Q. W. N. W.?

A. Yes, sir; W. N. W.

78 Q. How were you headed, as near as you could judge, at the time the order was given to stop, slow, and back?

A. The same direction; we had not altered our course in the least.

Q. Did you have a compass on deck?

A. No, sir.

Q. How do you know you had not altered, standing forward as you were?

A. Seeing ahead would tell me quicker than a compass.

Q. Do you know how many points there are in the compass?
A. I don't know.
Q. How many are there?
A. 36, I believe; I won't be sure; I am not much acquainted with the compass.
Q. But you are not sure about that?
A. No, sir.
Q. Did you know what the steamer was when you saw her?
A. I did not know who she was.
Q. You knew she was an ocean-going steamer?
A. Yes, sir.
Q. You knew she was going to sea?
A. I supposed she was from the way she was going down the river, from the way she was headed.

Q. Did you notice any vessel at anchor in the river other than
79 those two ships you went between?

A. There were vessels lying along the Jersey shore, along the west shore.
Q. Did you notice any other vessels?
A. There were a few scattering ones lying down towards Governor's Island.
Q. How long is the Corsica?
A. I don't know, sir.
Q. Is she as long or longer than your vessel?
A. I don't think there is a great deal of difference in her length; I don't know her length.
Q. How much water does she draw?
A. I don't know that either; I should think she might draw about 15 feet; I don't know her draft of water.
Q. How far was the point of collision from the Jersey shore?
A. Well, we were about two-thirds of the way across the river from New York, and about one-third of the way from Jersey shore.
Q. Whereabouts was the Corsica when you first saw her?
A. She was above us in a straight line coming down.
Q. Coming down due south?
A. Yes, sir.

Q. Was she above or below the Cunard wharf?
80 A. She was below.

Q. Was she above or below Sussex st.?
A. I think she was down about abreast of Sussex st.; she might have been a little below it; when we saw her she was above Sussex st.
Q. How far above Sussex st.?
A. I don't know that she was hardly any above; we headed about two piers below our coal dock at Sussex st.; when I first saw her she was about 5 or 6 lengths off.
Q. Did you see her before or after the bell was rung to stop?
A. I saw her when the bells were rung to slow and stop.
Q. And she was then two or three lengths off?
A. She was more than that; 3 or 4 lengths off; 4 lengths.
Q. That was what first called your attention to her?
A. The bells ringing? Yes, sir.
Q. Is yours a pretty powerful vessel?
A. Yes, sir.
Q. She is a tug?
A. Yes, sir.
Q. Has she any speed?

A. Not very fast.

Q. How fast can she go?

A. Perhaps 12 or 14 knots; she could do that.

81 Q. What pressure of steam does she commonly carry?

A. About 25 lbs.

Q. What is she licensed for?

A. I don't recollect; I guess 35.

Q. She commonly carries 25?

A. 20 to 25.

Q. Can she do 14 knots at 25?

A. I should think pretty near it; it depends on how the tide and the weather is, and so on.

Q. You say after the Corsica backed out, she listed over the port?

A. Yes, sir.

Q. How came she to list over to port?

A. By her wheel being carried away from the starboard side; the wheel-house; the guard; the deck.

Q. That kept the hole out of the water, did not it?

A. That threw her over on her beam end, and threw the other guard in the water.

Q. And it kept the hole made by the Corsica, if there was any hole, out of the water?

A. There was no hole made in her hull.

Q. Merely carried away her wheel and paddles and paddle-boxes?

A. And frame; the shaft got around against her hull and kept

82 her bow from entering her hull—right around.

Q. Then she must have struck the shaft very nearly a straight blow to bring it round?

A. Struck it a glancing blow; it entered in about the middle flange of the shaft?

Q. And she bent the shaft aft?

A. She carried it right aft.

Q. Do you know how far the flats on the Jersey shore extend out beyond the end of the pier?

A. We calculate from Sussex st. up to the Cunard dock; we calculate to that pier about [about] on the edge of the water.

Q. How is the edge of the water at the end of the pier?

A. I never measured it.

Q. How deep is the water out two-thirds in the river; did you ever measure that?

A. I should think 50 feet.

Q. How deep is the water out one-third in the river; did you ever measure that?

A. I never measured it.

Q. How do you know how deep the water was one-third of the way out from the Jersey shore?

A. I only judge from anchoring there with sailing vessels.

83 Q. Have you ever anchored in that part of the river with sailing vessels?

A. Yes, sir.

Re-direct:

Q. What was the speed of the America before the collision; what rate was she going?

A. She must have been going 8 knots before.

Q. You think about 8 knots?

A. Yes, sir; we always come to our dock with a low head of steam.
Q. Did you say how far the Corsica would have passed ahead of you if she had kept on her course, after your headway had been stopped in the water?
A. 300 feet.
Q. That was before the bell was rung to stop backing?
A. Yes, sir.
Q. Was the bell rung to back the second time just before you observed the sheer of the Corsica?
A. Yes, sir; just previous to the sheer.
Q. Was it about the time you heard this hail?
A. Her bells had been answered before we heard the hail.
Q. What bells had been answered?
A. To back the second time.
Q. What did you back for the second time?
84 A. To be sure and give her plenty of room.

William A. Van Duzen, a witness on behalf of libellant, being duly sworn, testified as follows;

Ex'd by Mr. Van Santvoord:

Q. What were you on board of the America?
A. Second engineer.
Q. What is your business, that of second engineer?
A. Yes, sir.
Q. How long had you been a steamboat engineer last year?
A. Five years.
Q. On steamboats?
A. Yes, sir.
Q. And before that what had you been?
A. Deck-hand and fireman.
Q. As such, have sometimes worked the engine, before you were engineer?
A. Oh, yes, sir; frequently.
Q. Were you second engineer at the time of this collision on board the America?
A. I was.
Q. The engineer on duty was you, at the time of the collision?
A. Yes, sir.
85 Q. Did you know where the America was going to before hand?
A. She was going over to Jersey.
Q. You didn't see anything about her course?
A. No, sir; that is not my duty.
Q. You were in the engine-room?
A. Yes, sir,
Q. You know it was after she left her dock in the East River?
A. Yes, sir.
Q. And was bound for the coal-dock?
A. Yes, sir.
Q. Did you see this collision?
A. I did not.
Q. Did you hear it, or feel the jar?
A. I heard it, and felt the jar.
Q. You didn't see it?
A. No, sir.

Q. What bells were rung before the collision?
A. Slow, stop, and back; four bells, I guess.
Q. Were they obeyed, or how was that?
A. Yes, sir; they were.
Q. Slowed and stopped and backed; what was the next bell that you got?
A. One bell to stop backing.
Q. Did you get any bells after that?
A. I did. After I stopped backing?
Q. Yes, sir.
A. Yes, sir.
Q. What were they?
86 A. Two bells to back again.
Q. How many revolutions back had you made before you felt the jar of the collision, after backing the second time?
A. Four or five; I didn't count them; I cannot say positively; of course, I didn't stop to count them.
Q. That was the second time after the bells had been rung to stop backing?
A. Yes, sir,
Q. What quantity of steam had you on?
A. 23 lbs.
Q. How was your throttle before those bells were rung?
A. Close to, shut off, or not quite; very near.
Q. What speed were you running?
A. 5 or 6 miles an hour probably; I don't think we were going any faster.
Q. You had the throttle very close?
A. Yes, sir.
Q. How many revolutions would it take to stop the headway of the America when going 5 or 6 knots?
A. I believe it would take four or five.
Q. Was there any interval between the time of the bell to stop backing and the bell to back the second time?
A. Yes, sir.
Q. Can you undertake to say how long that interval was?
87 A. No, sir, I could not; I don't know; I would not say.
Q. You did not observe it by a watch?
A. No, sir; nor by a clock either.
Q. You cannot undertake to say how long it was?
A. Yes, sir.
Q. There was a definite interval?
A. Yes, sir.
Q. What was the engine doing at the time the boat struck?
A. Backing.
Q. How long did it continue to back when you began to back the second time—until what stopped you?
A. I could not tell you what time.
Q. Until what stopped you?
A. Until the collision stopped us, I kept on backing.
Q. The breakage stopped her engine?
A. Yes, sir; her going into our wheel stopped our engine.
Q. Was any part of the engine broke?
A. Yes, sir.
Q. What part?
A. The shaft pin.

Q. That was the breakage that stopped the engine, was it?
A. Yes, sir.

Cross-examined:

Q. How long have you been second engineer of the America?
88 A. Two years; two seasons, what we call a season.
Q. Have you a license as engineer?
A. I have.
Q. Who gave you that?
A. I cannot tell you the name now; the United States inspector, I suppose, for the State of New York.
Q. Did you see the Corsica before the collision?
A. I did not see her at all.
Q. You were in the engine-room all the time?
A. I was.

John Dillon, a witness on behalf of the libellants, being duly sworn, testified as follows:

Examined by Mr. Van Santvoord:

Q. You were a hand on the America at the time of this collision?
A. Yes, sir.
Q. Had you been there that season—the season of 1865?
A. Yes, sir.
Q. Where were you at the time of the collision?
A. Standing forward of the forward gangway door.
Q. When did you first go forward; was it after the hawser had been hauled in?
89 A. She had started to go to Jersey City.
Q. You knew what she was going to Jersey City for, didn't you?
A. Yes, sir.
Q. Where was she going to?
A. She was going over to the dock to change the water.
Q. Did you see the Corsica?
A. Yes, sir.
Q. How was she coming when you first saw her?
A. Coming right straight down the river.
Q. Were you on the forward deck at that time?
A. Yes, sir.
Q. Looking up the river?
A. Looking up the river, and I seen her coming down.
Q. How was the America headed at that time?
A. Headed across the river.
Q. After you saw the Corsica and the America on the courses which you have described, what was the next thing that you heard or saw?
A. One bell rang to slow and stop, and two to back.
Q. On what boat?
A. On the America.
Q. Do you know whether those bells were obeyed?
90 A. Yes, sir; they were obeyed.
Q. What effect on the headway of the steamer had this slowing and stopping and backing?
A. Well, it stopped her dead in the water; she had a little sternway on.
Q. Then did you know of the bell being rung to stop backing?
A. Yes, sir.

Q. What was the course of the America after these bells had rung to slow and stop, and to back, and down to the time of these bell to stop backing?

A. She was across the river yet, as near as I could judge.

Q. Going down the river?

A. The America was straight across the river.

Q. How was the Corsica?

A. When they commenced to go back the second time?

Q. No; before that; at the time she was stopped backing?

A. She had altered her course to go astern.

Q. At the time the bell of the America was rung to stop backing, how was the Corsica standing?

91 A. She was going down the river on a straight course, by the time the bell had stopped the first time; she was on a straight course down the river; the time the bell was rung to stop backing she was on a straight course then.

Q. If she had kept on that course, where would she have passed you?

A. She might have cleared us about half the length of us.

Q. Half a length ahead of the America?

A. Yes, sir; probably more; I am not certain.

Q. That or more?

A. Yes, sir.

A. At that time which was nearest to the Jersey shore, the Corsica or the America?

A. The Corsica.

Q. What next did you observe as to the Corsica?

A. She had altered her course.

Q. How?

A. She wanted to go to the port side.

Q. Eastward?

A. To go to the eastward.

Q. Was that towards the America?

A. Yes, sir.

Q. What then was done on the America?

A. I believe we rang two bells to back again.

92 Q. Do you know whether she did back again the second time?

A. Yes, sir; she did.

Q. What happened then?

A. She came down, and struck us forward, or a little aft of the forward gangway.

Q. On which bow?

A. On the starboard side.

Q. How far above, how much higher up the river was the Corsica, at the time she changed her direction to go to the eastward, above the place of the America?

A. She might be a length or a little more, as near as I could judge, when she altered her course.

Q. She was quite close then?

A. Yes, sir.

Q. Did you see this change of course?

A. Yes, sir.

Q. Did you observe whether she was stopped?

A. She did not look to me as if she was stopped; the water was rising at her bow.

Q. Was there another man forward there on the deck?

A. Yes, sir.

Q. What do you know as to the depth of the water at the place were that collision occurred?

93 A. I don't know; I believe there was a sloop sunk there two or three years ago, and the mast was pretty well down in the water. It looked to me as if there was a good depth of water there.

Q. How many feet?

A. I don't know.

Q. The mast of the sloop was out of the water?

A. Yes, sir.

Q. How much?

A. That I could not say; I was never close enough to it to tell.

Q. On what boat where you at the time you saw the sloop sunk?

A. The Sarah A. Stevens.

Cross-examined by Mr. Lord:

Q. When did you go forward to this place, the gangway?

A. I went forward after they started to go to Jersey City.

Q. How long after you started to go to Jersey City?

A. It was not much over a minute.

Q. Where was the America when you started to go forward?

A. She was somewhere around pier one, or around the Battery; I did not take much notice.

Q. What did you go forward for?

A. I had nothing else to do but to look around.

94 Q. Where were you when you first saw the Corsica?

A. I was on the forward deck.

Q. And where was the America when you first saw her?

A. She was going over to Jersey City.

Q. How far had she got towards Jersey City; had she passed those two gunboats?

A. Yes, sir; she had passed those two gunboats.

Q. When you first saw the Corsica?

A. I did not see the Corsica, not until the bells were rung; I might say a little before; but I did not take much notice.

Q. You didn't notice the Corsica till the bell had rung?

A. Till the bell had rung.

Q. And you saw her?

A. Yes, sir.

Q. And you noticed her course?

A. Yes, sir.

Q. Where was she when you saw her then; how far up the river?

A. How far was she then from us?

Q. How far was she above you in the river?

A. She might be half a mile, if not more.

95 Q. When the bell was rung to stop?

A. She might not be quite as far.

Q. Half a mile or less?

A. Or less.

Q. Was she ever a quarter of a mile?

A. No, sir; I could not say how far she was.

Q. Could you say she was less or more than a quarter of a mile?

A. About a quarter of a mile or more.

Q. How long is the America?

A. I don't know.

Q. How long is the Corsica?

A. How long she is? I never was on board of her.

Q. How many times the America's length makes what you suppose to be a quarter of a mile?

A. Nine or ten lengths, I should think.

Q. Ten lengths to a quarter of a mile?

A. There might be more.

Q. More or less?

A. Yes, sir.

Q. Have you any idea how much a quarter of a mile is?

A. I never figured up that much to know.

Q. You never figured up to know?

A. No, sir.

Q. What had you been doing, before you shipped as a deck-hand in the America?

96 A. I was no deck-hand.

Q. What were you?

A. Fireman.

Q. What had you been before you became fireman?

A. I worked in a saw-shop in Albany

Q. How do you that the America had stern-way at any time?

A. To me she was going back.

Q. How do you know that?

A. I can judge by the water.

Q. Judge by what water?

A. The motion she had in the water, she was going back—the way she was backing.

Q. Did you stay at the forward gangway until she struck you?

A. Yes, sir.

Q. And you were there when the Corsica come into you?

A. Yes, sir.

Q. And struck you?

A. Yes, sir.

Q. And did not go aft at all?

A. No, sir; not till after she struck us, and then I went aft.

Q. How near the rail were you standing?

A. I was standing on the port side about the middle.

97 Q. About the middle of the ship?

A. Not exactly in the middle, lying up against the gangway door; not exactly lying against it.

Q. Do you say that from there you judged she was going back? [Q.] From the motion in the water?

A. Yes, sir; I should judge the way she backed that she was going back.

Q. Did you notice her working-beam?

A. I could not see her working beam.

Q. Then you did not notice it?

A. No, sir; the beam is away up on the upper deck, and I was on the lower deck.

Q. Who else was on deck besides you?

A. I could not say; there was Charles Adams.

Q. Where is he now?

A. He is on the America.

Q. Where are you now?

A. I am on the America.

Q. Is Charles Adams in court?

A. No, sir.

Q. Do you know how the America was heading by compass when she began to slow?

A. No, sir.
98 Q. You don't know anything about the compass?
A. I don't bother about it; it is not my business.

Lansing Miller, a witness on behalf of libellants, being duly sworn, testified, as follows:

Examined by Mr. Van Santvoord:

Q. You are pilot of the ferry-boat New York?
A. Yes, sir.
Q. That is a ferry-boat running on the Jersey shore?
A. Yes, sir.
Q. Between the foot of Courtland st. and Jersey City?
A. Yes, sir.
Q. Did you see the America and the Corsica before and after the collision?
A. Yes, sir.
Q. You did not see them at the time they struck?
A. No, sir; I seen them just after—just as the Corsica was backing out, or after she had backed out, I seen her.
Q. When you saw the Corsica last before the collision, how was she heading?
99 A. She was heading straight down the river.
Q. You were then coming across, were you?
A. I was coming across to New York.
Q. Then you did not notice her until after you got fast to the bridge on the other side after the collision?
A. Yes, sir; I came to New York, got to the bridge, and I sat down in a chair, and I looked across the river, and she had backed out of the America.
Q. Had you seen the America before the collision?
A. Yes, sir; I seen her over towards Castle Garden somewhere; I don't know exactly, but somewhere there; whether she was going or lying still I could not say positively; I know I seen her there.
Q. Do you know how she was standing?
A. I think she was headed partly across the river at the time I seen her first.
Q. And at that time which was the furthest east—at that time the America was further east than the Corsica?
A. Yes, sir; when I first seen the America she was away over
100 on the New York shore.
Q. Then you lost sight of them?
A. I did not notice them.
Q. Until after you had gone over and got your boat fast to the bridge?
A. Yes, sir; and then I sat down in a chair; and I happened to look over that way, and I seen them again, and the Corsica had just backed out of her then, or backed away from her.
Q. At what rate of speed was the Corsica going when you last saw her before the collision?
A. That I could not tell, because I paid no attention to her speed.
Q. You saw the place where they were, just as they separated?
A. Yes, sir.
Q. Now how as to the room for the Corsica to have gone down to the westward of the place of the collision, was there anything in the way?
A. I did not notice anything in the way where she was going; there were vessels at anchor to the west of where she was, but I did not

101 notice anything where she was going or wanted to go when I last seen her before the collision. They would not very likely want to go where there is anything in the way.

Q. How about the water there on the course she was going?

A. I could not tell how much water there is; I never measured it.

Q. Is there any other way without measuring it that you know of as to the quantity of water?

A. There is water enough there for any ship; there is as much water there as there is anywhere in the river, I should think.

Q. Have you seen other or larger ships go down that way?

A. Yes, sir; I have seen the Scotia and the Persia and all them ships go further to the westward than where they struck, or where they were when I seen them.

Q. How much further could she have gone to the westward of the place where you saw her?

A. I could not tell you exactly; I think she could go some
102 way further. There is water enough for the Corsica to go most anywhere there.

Q. Were there any vessels at anchor along the west shore from the ferry down?

A. Yes, sir; there were vessels to anchor there, further to the westward than where they were.

Q. Where there any vessels out to eastward of where they were—any crowd of vessels?

A. Well, I don't think there were a great many vessels to an anchor out in the river at the time; I did not pay much attention to that; if I recollect right, I think there were very few vessels to anchor then around the middle of the river.

Q. What that were, more well into the middle, westward?

A. Yes, sir; there are generally a lot of schooners anchored to the westward, along Jersey City.

Cross-examined by Mr. Lord:

Q. When you saw those two boats separating, in what direction did they bear from where you were siting?

A. Do you mean by the compass?

Q. Yes, sir.

A. About S. W., as near as I can tell you—about S. W.

103 Q. How far off were they from you?

A. I should think half a mile.

Q. As near as a half a mile, you think?

A. It may be further; I could not tell you exactly.

Q. According to your best recollection of the distance, how far were they?

A. I should think half a mile further on.

Q. How near did you suppose them to be to the New Jersey shore?

A. As near as I can tell you, they were about two-thirds of the way across from here over to Jersey.

Q. That is, they were one-third of the distance from the Jersey shore?

A. Yes, sir; as near as I can tell you.

Q. How wide is the river in that place?

A. It is not quite a mile; I understand it is a mile from Courtland st. to Hudson st. in Jersey City.

Q. Did you see any gunboats lying in the stream?

A. I did not notice them; there might have been.

Q. Might there not have been other vessels besides gunboats without your noticing them?

A. There might.

104 Q. Where were these vessels lying that were on the west shore that you referred to?

A. Lying along the dock there where those schooners anchored.

Q. About how many?

A. I could not tell you anything about that.

Q. You have no idea as to the number?

A. No, sir; I did not pay any attention to it.

Q. Were they anchored above or below Sussex st.?

A. Above.

Q. How far off from the ends of the piers?

A. How far were they anchored off?

Q. Yes, sir.

A. That I could not tell you.

Q. Were they anchored as much as one quarter of the way across the river?

A. Sometimes they do, and sometimes they don't; it is according to circumstances.

Q. Were they at that time?

A. I could not tell you.

Q. How far down towards Ellis Island were they spread out?

A. I did not notice.

Q. Did you notice whether they went well down to the island?

105 A. I did not notice.

Q. How was the tide?

A. Well, I don't recollect exactly; I think it was pretty near slack-water.

Q. High or low?

A. High, I think; if I recollect right.

Q. How near have you seen the Scotia go to the western shore—how much nearer?

A. I have seen her go some distance to the westward of where they struck.

Q. How much to the westward?

A. I could not tell you exactly.

Q. A quarter or a half a mile?

A. Oh, no.

Q. One hundred yards?

A. I could not tell you exactly; I have seen them go pretty well into the westward; I have seen go in where the schooners anchored, when there was nothing there to hinder them at the time; when it comes right for them to go in there to get to their docks they go there.

Q. Have you any idea how much water the Corsica drew?

A. I don't know exactly; I think she drew—I don't know what water she does draw, but I should think, to the best of my knowledge, she drew some sixteen or eighteen feet.

106 Israel S. Wolcott, a witness on behalf of the libellants, being duly sworn, testified as follows:

Examined by Mr. Van Santvoord:

Q. Were you on the America at the time of this collision?

A. Yes, sir.

Q. What was your business?

A. First engineer.

Q. Mr. Van Duzen was the second?

A. Yes, sir.

Q. Where were you when the bells rung to slow?

A. I was on the chain-boxes in the gangway right by the engine-room door; I sat on the chain-box when the bells were rung.

Q. What bells were rung?

A. The bells to slow or stop, and two bells to back.

Q. Was that the first you knew of the approaching vessel?

A. Yes, sir; that was the first I knew anything about it.

Q. Do you know whether those bells were obeyed?

A. Yes, sir.

Q. What was the next bell rung?

A. The next bell was rung to stop her and back her.

Q. Then where did you go to?

107 A. I did not leave the engine-room till the bells were rung to back again; when two more bells were rung, then I started and went to the gangway to see what was the trouble.

Q. Which gangway?

A. The starboard gangway, aft of the water-wheel, just opposite the engine-room.

Q. Aft of the wheel?

A. Yes, sir.

Q. Did you see the Corsica then?

A. Yes, sir.

Q. How was the America heading at that time?

A. When I walked to the starboard gangway, aft of the wheel, the Corsica was forward of our bow, I should say about the length of her; I should say it was 300 feet; and I could see the Jersey City shore between the Corsica and the America, and from the course that she was coming I seen she going to strike us forward of the wheel. From the after gangway, where I stood looking forward, I saw the Corsica coming, and I knew by the course she was going then, that she was going to strike us forward of the water-wheel.

108 Q. And how far from you?

A. Well, I should say, about 300 feet; between 300 & 200 feet. I seen that she was coming with such force, by the looks of the water on her bow, that I started aft and left the gangway.

Q. How fast do you think she was coming at the time?

A. Well, by the ripple she made on her bow, I should think she was going not far from 6 miles an hour; 6 to 7. A boat has to go pretty fast to make a ripple on her bow and turn the water up.

Q. You went aft when you saw her coming into you?

A. Yes, sir.

Q. From apprehension of danger?

A. I went aft, for I knew she could not help but hit us; and I went aft to see if the small boat was ready to get into, for I expected, when I saw her, that she would cut the America right in two.

Q. How far had you got from the gangway when you heard the crash?

A. When I heard the crash I was at the after end of our boiler.

109 Our boiler is about 30 feet, and I was about 40 feet from the gangway aft when she struck.

Q. Had you seen the Corsica before that?

A. No, sir.

Q. You did not see her then until after the bells were rung to back the second time?

A. No, sir. After the bells rung the second time, then I went to the gangway.

Q. After she struck, then where were you?

A. I went to the yawl boat after she struck.

Q. Where was that yawl boat?

A. The yawl boat lay under the guard on the starboard side aft, and I got hold of the painter and pulled the yawl boat out from under the guard.

Q. Where was the painter?

A. The boat line was made fast aft, right over the rudder. The boat had swung round under her guard.

Q. From backing?

A. Yes, sir.

Q. After that, where did you go to?

A. After that I went to the engine-room to drive the pumps. After I seen the Corsica had stopped, I went and seen whether the
110 boat was making water. I tried the pump, and there was no water in the pump; and I went down in the boiler-room to see whether it stopped coming in the port-holes. There were two men stopping it from coming in the port-holes when I went down. Then I came on deck again, and I went down below to see whether there was any water down at the side of the engine where the Corsica had carried away the guard from the water-wheel; and I seen there was no water coming into her, and then I came on deck and helped them righting the boat up.

Q. Then she was righted up; and then, after that, she was towed over?

A. When we got her righted up, a propeller came and took hold of us, and towed us, when we were lightering her up. I was at work on the deck till we got in, so that the water did not get at the port-holes. We got her righted up, so that we got her port-holes out of the water.

Q. Do you know where she was hit?

111 A. Yes, sir; she was hit 27 feet from forward of the water-wheel when she was first struck, and cut through the guard; cut off eight deck-beams; part through the wheel-beams, and struck the water-wheel amidships. She cut through the bracket rails, and went into the centre flange. Her bow struck the centre flange-shaft, and broke it into four or five pieces, and went inside of that and struck a shaft, and carried the shaft aft, [and carried the shaft aft] so that the end of it fetched up on top of the after wheel-beam, and the outer end-board of the shaft left the inboard end on an angle. The wheel is 30 feet, and the space between the two wheel-beams is 34 feet. It carried that round 16 feet—the after end; and the gallows-frame held the inboard end out, and kept the shaft from going overboard. It broke off the after end that had nothing hanging to it.

Everything was swept but the end of the pillar-block which rested on the shaft; all the woodwork went off and left it; it slewed her inboard pillar-block and broke it.

112 Q. (By the court.) How far from the bow was it where the stem struck you?

A. The Corsica's stem struck us aft of our stem, from 45 to 50 feet; not far from 50; I did not measure that, but I should judge between 40 and 50 feet.

Q. What was the weight of that shaft?

A. It weighed something like five tons; it is 27 feet long and 15 inches in diameter.

Q. What is the length of the America?

A. One hundred and eighty feet keel, I believe, and 200 feet on deck.

I was on board of her when she was launched; and when she was built, I think I heard the clerk say that she was 180 or 185.

Q. When was the collision?

A. The ninth of September.

Q. And between what hours?

A. It was not far from one o'clock; it might have been a few minutes before one, but not far from one o'clock.

Q. Do you recollect how the tide was?

A. I saw the vessels after the collision that we passed when we were going in, and some of them lay crossways in the river, and some
113 swung a little up, and some a little down; the farther we went in the more they were swinging down; where we lay after the collision, they did not move much, if anything. I looked ashore, and it was just falling water; the current was not running down strong, and the vessels had just began to swing.

Q. It was the last of the flood?

A. The last of the flood.

Q. Had the America's engine been reversed long enough after the second reversal to give her stern-way?

A. Yes, sir.

Q. What caused this boat to be under the guard?

A. The stern-way; as soon as a steamboat gets stern-way in the water the boat aft swings round.

Cross-examined by Mr. Lord:

Q. When did you find the boat, before or after the collision?

A. After the collision; I did not go aft till after the collision.

Q. Was it not the effect of the collision to give the America stern-way?

A. The blow?

A. Yes, sir.

114 A. Well, the blow, I think, carried her astern; I think that is all that saved her.

Q. Could not that have been what brought the yawl boat under the guards?

A. It might have been; I could not say as to that.

Q. The yawl boat being under her guards, did it not necessarily show that she had sternway before the collision?

A. I was not there to see that.

Q. Did the yawl boat, being under her guards after the collison, show that she had stern-way before the collision?

A. It showed that she had stern-way. If we stop and back our boat as soon as we get any stern-way on to her, the wheels going back throws the water off, and the boat always swings under the guard.

Q. I ask whether the yawl boat, being backed after the collision, shows necessarily that the America had stern-way before the collision?

A. I cannot tell that; I say the yawl boat being under her guard, showed she had stern-way, or it would not have went there. If
115 the boat was there before the collision, that I don't know.

Q. For all you know, the yawl boat might have been dragging astern up to the time of the collision?

A. That I don't know; only I know the America's engines were worked enough to get stern-way on her before the collision.

Q. How far forward did you find the yawl boat?

A. The painter is about 12 or 14 feet long, and that would let her swing round. The yawl boat is some 18 feet long. I think her stem

was, I guess, about twenty feet from the stern of the boat—from the rudder; I know I walked on the guard, and the boat was then heeled over, so that it was away down.

Q. Where was this chain-box at the time you were sitting on it?

A. About so far from the engine-room—to the end of that desk.

Q. How many feet is that?

A. About 4 feet.

Q. About 4 feet from the door of the engine-room?

A. Yes, sir.

Q. Did the engine-room extend forward of where the chain-box
116 was at the time?

A. Yes, sir; the engine-room was a little forward and a little aft; the chain-box ran about three feet, and our engine-room was about 6 feet.

Q. Which side of the boat was the chain-box that you were sitting on?

A. On the larboard side.

Q. On the port side?

A. Yes, sir.

Q. When you went forward, after the second order to back was given, you went to the starboard side?

A. I didn't go forward; I went right across. Her engine-room was there, and I walked right round on the back side of the engine-room, and walked to the gangway, right opposite, after the bells commenced ringing a second time.

Q. What had you been doing up to the time when you went forward; just sitting there?

A. When we stopped to haul in our hawsers, when we were hauling them in, I was down to dinner; I went down to dinner at half past 12; when one watch comes up the other goes down. My watch was
117 till 12. I came up from dinner, and then we were just starting up from hauling in the hawsers. I came into the engine-room; when we come to the dock I am generally around the engine, or around the fire-room to see about my business, and we started across the river, and I sat down on the chain-box; I sat there till the bell rang.

Q. You sat there to look after the engine, didn't you?

A. No, sir; my second engineer had one wheel.

Q. You sat there in case you might be wanted?

A. No, sir; when I got to the dock, I wanted to get my work done; it was 12 o'clock, and we had to go out again at four o'clock, and we turned to and changed the water as soon as we could.

Q. You sat there to be handy to the engine-room?

A. I generally sit there before any other part of the boat, when on deck.

Q. You don't pay any particular attention to the direction of the compass?

A. No, sir.

Q. You did not notice when you passed the gunboats?
118 A. No, sir; I did not see them.

Q. You don't know whether you went between two vessels?

A. No, sir; the first I knew about it was, when the bells rang; I sat there, and I don't know but I might be talking to the second engineer; he was there with me.

Q. When the two bells rang to back again, you went to the starboard side?

A. I went to the after gangway on the starboard side.

Q. As soon as you got there, you saw the Corsica?

A. Yes, sir; I saw her.

Q. Did you notice how the America was heading at that time?

A. She was heading to the Jersey shore, for when I looked out the gangway, I saw the docks where I was, between the Corsica and the America.

Q. You say the Corsica was how far off from you?

A. Between 200 and 300 feet; I think the Corsica was about 300 feet long, and I think there was about her length between the America and her when I saw her, when I went to the gangway.

119 Q. How was she heading at that time?

A. She was heading to strike us forward; I thought she would cut us off at the forward gangway, but she ran such a sheer that when she did get towards us she came more for us, so that she went into our guard and followed our guard; she did not go into the hull; she followed the guard right along.

Q. When you saw that the Corsica was coming into you, you went right aft, didn't you?

A. Yes, sir.

Q. How far aft had you got before the Corsica struck you?

A. About 40 feet from the gangway.

Q. You had got 40 feet from the gangway before the collision, and after hearing the second bell rung you went to the starboard side of the deck and looked at the Corsica, and you then went immediately aft and got 40 feet aft when the Corsica struck you?

A. Yes, sir.

Q. What sort of a blow did she strike you—a straight blow or a glancing blow?

A. She struck the Corsica a glancing blow, and her bow being
120 sharp and of iron she cut right through the America's sides.

Q. The damage she did was to sweep pretty much everything on the starboard side of the America?

A. Yes, sir.

Q. She didn't cut into the America's hull at all?

A. No, sir; her bow fetched up against the shaft, and she had to go through the shaft or carry the shaft away in on deck when she struck before she could get to the hull.

Q. How far inboard did the shaft extend?

A. 14 feet from the hull of the boat into the end of it; we are 31 feet beam, and the shaft comes within a foot of the centre of the boat—end of it.

Q. Do I understand you to say that was broken or bent?

A. It was split right through the journal; I don't know that it was bent. We could not see that it was bent any. The foundry-man that repairs it might know whether it was bent or not.

Q. Was it not cast-iron?

A. No, sir; wrought-iron.

Q. You could not see that it was bent; you say it was split;
121 what do you mean by that?

A. It was split right through the journal, and then checked down about an inch. The journal is 17 inches long, and it went the length of that, and after it got the length of that, there was a split down across it about an inch or an inch and a half.

Q. How do you know the split was not in before?

A. I don't know; I could not say as to that; I did not see it before. We generally look at the journals twice a year to see if they are all right.

Q. Don't you occasionally find a flaw in that right journal?

A. There was a flaw in the other shaft, but there was no flaw in this.

Q. When did you abandon the other shaft?

A. We have not abandoned it; we use it yet.

Q. Whereabouts was that flaw?

A. It was in the gangway, about 2 feet from the inboard journal. I am talking about the other shaft; about two feet from the inboard journal in the gangway.

Q. Is there not more strain just at the journal than at any other place?

122 A. Yes, sir; there is.

Q. So that, if there is any imperfection there, it is pretty sure to show itself with use?

A. If there is any flaw in a journal, it won't last a great while. If the journal is not all right it will show there quicker than any other place.

Q. How are the journals fastened?

A. With what we call a pillar-box, a composition of brasses put into that, and the shaft sets into that, and there is a binder on top of the boxes there of three-inch boards.

Q. You say the stem of the Corsica strike the middle flange of your wheel?

A. Yes, sir.

Q. What do you mean by that?

A. We have three flanges—three arms that are of cast-iron, about seven feet in diameter; those flanges were ——

Q. How far was that flange from the middle of the boat?

A. The first flange is about 12 inches from the hull. Our wheel-bucket was 10 feet 8 inches—the face of our bucket, and six

123 inches ran over each way outside of those flanges.

Q. Then the stem must have struck you at what distance from the water-ways of the wheel?

A. The stem struck the shaft, I think, about 4½ feet from the hull of the boat.

Q. It was the bluff of the bow that struck you first, was it not?

A. The Corsica's bow struck us first.

Q. The Corsica had shoved her stem into the middle flange of your wheel, and made a clean sweep of everything on your starboard side?

A. The Corsica's bow went in through our gangway 27 feet from the water-wheel; she followed that, coming in till she struck our shaft amidship, in the centre of the wheel.

Q. And what struck your shaft amidships was the stem and not the bow?

A. It was her bow stem that carried our shaft.

Q. And that being iron and very sharp, just made a sweep of everything on your starboard side?

A. It cut everything before it, and her bowsprit struck us for-

124 ward, and went away to the top of the water-wheel, and went up on the horg wheel and tore that off; it carried away our stanchions aft; it left the figure-head in the water-wheel.

Q. She didn't leave the bowsprit on board the America?

A. No, sir.

Q. That went on board of the Corsica?

A. I don't know where it went to; I didn't see anything of it there.

Q. Did you see the bowsprit going up?

A. I seen where it struck; I did not see it at all; I was not looking at her; I was only looking at the mark it made on the America; I didn't see the bowsprit.

Q. Can you tell how long it was between the order to stop backing and the order to back again?

A. From the time the first bell rang to stop till it rung to stop backing?

Q. No; from the time the bell rang to stop backing, until the bell rang to back again?

A. It was not far from half a minute; I think it was about a half a minute.

125 Q. Half a minute by the watch?

A. I should think, if I had my watch out looking, as near as I can recollect, it would be about half a minute by the watch; that is what calculated upon.

Q. About how many revolutions do you make in a minute?

A. Six revolutions in a minute; that is when we want to work her fast and strong, when we think we are going forward or coming out of a dock; if we work her strong we would work her six turns a minute.

Q. How is the order given to back at full speed?

A. They ring what we call a "hooking-on bell."

Q. That was not rung this time?

A. No, sir.

Q. How long was the period between the bells to slow and to stop and to back?

A. Well, maybee three seconds; he rang one bell, and, as soon as that bell stopped, there was another one to stop, and as soon as the engineer can unhook his engine and get his bar-iron, there is another one

126 rung to back. It would take two or four seconds to get your bar-iron and reverse your engine.

Q. You have to put in a bar to reverse the engine?

A. Yes, sir.

Q. Where is that bar put?

A. It stands in front of the rock-shaft, where you use it.

Q. That has to be taken out of that place and put in the rock-shaft?

A. Yes, sir.

Q. And then to be moved by hand to back?

A. Yes, sir.

Q. At first it moves very slowly?

A. You move it just as fast as you lift it down; you have to move it up, and, when your engine makes half a turn, you have to reverse it?

By the court:

Q. Which do you consider the longest, the period between the bell to stop backing and the bell to back again, and between the last bell to back and the blow?

A. We were backing longer than the time was between the bells to stop backing and when we went to backing again.

127 Q. Which was the longest period, between the time you stopped backing the first time and commenced to back again, and the period between the last commencing to back and the crash?

A. The first was the longest.

By Mr. Van Santvoord:

Q. There was a longer period between the bell to stop backing and the bell to back than between the last bells to back and the collision?

A. I did not understand that; I understand from the time the bells rang to back and the bells to stop backing, and the second time it rang to go back.

Q. That is not the question; the question is, which was the longer interval, between the bell to stop backing after the first backing, and the second bells to back, or the interval between the bells to back and the collision?

A. The period between the bells after he rang to stop and rang to go back again was shorter than the other two, either before or afterwards.

Q. Then the interval between the bell to stop backing and the bell to back the second time was shorter than the interval between the bell to back the second time and the collision?

128 A. Yes, sir; because after the bell was rung the second time to back, I had to go round the gangway, and then I walked from there aft, some forty feet, before she struck; I was as long going from the engine-room to the gangway, and longer, than I was going to the gangway aft.

Q. Had the bell rung to stop backing the first time before you went to the gangway?

A. Yes, sir; I didn't go till after that for that was what started me—the bells ringing the second time; that was what started me to the gangway.

Q. Did the collision stop the engine from working back?

A. It carried one shaft away from the other.

Q. And stopped the working?

A. It bent the crank-wheel so that she could not work.

Q. Do you know whether the America, on going over the river, had her throttle close?

A. Yes, sir.

Q. In going to her landing?

A. Yes, sir.

Q. Before the collision?

129 A. Yes, sir.

Q. At about what rate of speed was she going?

A. About 6 miles; we always round slow going across, and give the second engineer orders to shut her off; and to keep steam enough with a little fire to get in; and in case of any bother over on the other side, we don't to have fire up, but run her slow.

Q. Had the throttle been opened when these signals to back were given?

A. Yes, sir; I know it was.

Q. It was opened?

A. It was opened as far as we ever open it.

Q. The throttle was then wide open at the first signal to back, when?

A. At any time; we never can get a throttle wide open, but we call it open.

Q. Was it open as wide as you ever have it, at the time of the second signal to back?

A. Yes, sir.

Q. Was it at the time of the first signal to back?

A. Yes, sir.

130 Q. Then the backing was with the full power of the engine?

A. Yes, sir.

Q. If this hook-on bell had been rung could she be backed with more power than she was?

A. I cannot tell; the second engineer was working her; the way I do that when I am working the engine, if that bell rings I move my bar as far as I can up and down. He was working the engine, and I cannot

say whether he moved the bar as far as he could; I cannot say that, but I know the throttle-valve was open. We regulate that by moving the bar. If you throw your bar as high as you can you open the valve higher. I know the throttle-valve was open.

Q. At the time of both reversals of the engine?

A. Yes, sir.

Q. (By the court.) After you started, when you heard the bells, how many turns back do you think she made before the crash?

A. I think she made about four in that time; we had time to make about 4 turns?

131 By Mr. Van Santvoord:

Q. How many turns would she make a minute?

A. By hand?

Q. Yes, sir.

A. About six.

Q. That is, a minute by the watch?

A. Yes, sir.

Re-cross-examination:

Q. How long do you know the throttle-valve was open?

A. I looked at it and seen it when we commenced backing. I sat right by the throttle-valve when the bells rang.

William Van Duzen, recalled, and further examined by Mr. Van Santvoord:

Q. How was it as to your throttle being open at the time of the signals to back, just before the collision?

A. It was open as far as we generally have it at any time.

Q. The first and second reversal?

A. Yes, sir; it was not altered, neither the first nor the second.

Q. Were both backing with the full power of the engine?

A. Yes, sir; with the steam we had.

132 Q. What is your recollection as to the number of reversals at the time of the second signal?

A. About 4, I should judge.

John W. Shook, a witness on behalf of the libellants, being duly sworn, testified as follows:

Examined by Mr. Van Santvoord:

Q. What was your position on the America at the time of this collision?

A. Pilot.

Q. How long had you been a pilot on the Hudson?

A. Twelve years a steamboat pilot.

Q. You had a license from a government officer?

A. Yes, sir.

Q. Of competent authority to grant the license?

A. I suppose so.

Q. Before that, had you been pilot on sail-craft?

A. Yes, sir.

Q. You were first pilot, but you were not at the wheel at the time?

A. No, sir.

Q. Where had the America come from before she went round to the East River?

133 A. She came round the North River, from Albany, with a tow.

Q. And where had she taken them to?
A. Down to pier 5 or 6, East River.
Q. After leaving the tow there, where did she start to?
A. Jersey City.
Q. For what dock?
A. Sussex street.
Q. Where is that dock?
A. The second pier below the steamship dock there.
Q. (Respondent.) Below the Cunard dock?
A. Yes, sir.
Q. (Libellant.) Did you stop off the Battery?
A. Yes, sir.
Q. What did you do there?
A. Hauled in the hawsers.
Q. Where were you after that?
A. On the after deck.
Q. Near what?
A. I was around the bitts.
Q. Within how many feet of aft?
A. 30 or 40 feet.
Q. Who was with you there?
A. The mate, I believe, Mr. Johnson, was there.
Q. What were you doing there?
A. After we got started he was running the hawsers around to get ready & back her in.

134 Q. While hauling the hawsers, did you hear any bells?
A. Slow, stop, back.
Q. One to slow?
A. Yes, sir.
Q. One to slow?
A. Yes, sir.
Q. How many to back?
A. Two.
Q. Do you know whether these signals were obeyed?
A. Yes, sir.
Q. What effect had that on the America's headway?
A. It stopped her way through the water, and gave her a little sternway.
Q. Did you hear a bell ring to stop backing?
A. Yes, sir.
Q. Did you see the Corsica before this bell to stop backing?
A. Yes, sir.
Q. Where from did you see her?
A. On the starboard side aft.
Q. Did you step starboard there as soon as the bells were rung?
A. As soon as they rung to slow and stop.
Q. The starboard side, aft of the wheel?
A. Yes, sir.

135 Q. On the guard?
A. Yes, sir.
Q. Did you see the Corsica then?
A. Yes, sir.
Q. What was her course?
A. Straight dow' the river.
Q. How much farther up?
A. Three or four lengths.

Q. I think you said you did not go to the guard until the bell to stop backing, and then you saw her coming down 3 or 4 lengths further up?
A. Yes, sir.
Q. Which vessel was nearest to the Jersey shore?
A. The Corsica.
Q. The Corsica was nearer the Jersey shore than the America?
A. Yes, sir.
Q. How was the America heading then?
A. She was heading pretty near across the river, a little up the river, below ——
Q. That, then, was the position when the America's bell was rung to stop backing?
A. Yes, sir.
Q. When you went out on the guard she was still heading straight down the river, and the America standing over towards the Jersey shore?
136 A. Yes, sir.
Q. How near to across the river was the America heading?
A. We headed up the river a little, not a great deal.
Q. When the bell was rung to stop backing, where did you go?
A. I went in midships, by the bits.
Q. At that time that you left to walk in amidships the Corsica was standing down?
A. Yes, sir.
Q. And the America very near straight across the river?
A. Very little sternway on her, if anything.
Q. Was there anything in the courses of these vessels to indicate any danger of a collision?
A. Nothing that I could see.
Q. When you stepped in amidships, after the bell to stop backing, I suppose you lost sight of the Corsica?
A. Yes, sir.
Q. What was between you and the Corsica?
A. Nothing.
Q. Was not the joiner-work of the steamer between you when you stepped in amidships?
A. Then I could not see her.
137 Q. You were behind what?
A. Behind the joiner-work.
Q. What did you do then?
A. I stayed there till the bells rang to back again.
Q. Didn't you go to work to haul the hawsers again?
A. I don't know but we had enough of it around; we had a heaving line, which was run forward.
Q. If the Corsica had kept on the course she was on when you saw her from the guard, before you came back into midships—your vessel being where she then stopped with stern-way—could there be any collision?
A. No, sir; I supposed everything was clear when I walked in.
Q. What was the next thing that attracted your attention?
A. Two bells, to back.
Q. Then where did you go?
A. Then I went out on the guard.
Q. On the guard again?
A. Yes, sir.
Q. What did you see then?
A. I saw the Corsica had altered her course, and was coming right for us.

Q. From the course, such as you described before, down the river?

138 A. Yes, sir—sheering to the east.

Q. She came into you, sheering to the eastward?

A. Yes, sir.

Q. Where did she hit you?

A. About 40 feet from her stem.

Q. Was it forward of the starboard wheel?

A. Yes, sir.

Q. Which was the higher vessel?

A. Higher out of the water?

Q. Yes, sir.

A. The Corsica.

Q. Did you notice whether the starboard guards of the America were borne down or not by the collision?

A. No, sir; I did not notice that.

Q. Did you notice whether afterwards she listed over to port?

A. Yes, sir.

Q. What was the cause of that?

A. The woodwork fell overboard.

Q. (Respondents.) Because the woodwork on the starboard side fell over?

A. Yes, sir.

Q. (Libellant.) Then what did you do on board of the America? You went to work to right her up?

A. Yes, sir.

Q. And then where was she taken to?

A. She was taken in there above the Central ferry.

139 Q. What was the date of this collision?

A. The 9th of September.

Q. About what hour?

A. About 1 o'clock.

Q. How was the tide?

A. High-water slack.

Q. How was the wind?

A. Eastward.

Q. How much of it?

A. Very light.

Q. Where there any vessels at anchor there, near the Jersey shore?

A. Yes, sir.

Q. Whereabouts?

A. From the steamship dock down pretty near to the ferry; they laid in a string along.

Q. Were they to the eastward of the place of collision?

A. Yes, sir; pretty well in towards the dock, the most of them.

Q. Were any vessels in the way of the Corsica on her course down?

A. None that I seen.

Q. How far over the river was this collision?

A. About two-thirds of the way over.

Q. Were you nearer the middle of the river than the Jersey shore?

A. Yes, sir.

Q. In your judgment, how far would the Corsica have cleared

140 the America if she had kept the course she was on when you first saw her?

A. I thought by the looks of her from where I stood, she was the length of the America further to the westward, after the America's way was stopped.

Q. You were so far off you thought there was no danger?

A. When I went in, I thought there was nothing to clear; I had nothing to look at, then.

Cross-examined by Mr. Lord:

Q. What were you doing when yo went to the starboard side after hearing the bell?

A. I had been hauling the hawser around.

Q. Had you got it all in?

A. We had been hauling it in around the deck, on the port side, to get to the dock.

Q. You had got it all around when you heard these bells, had you not?

A. I think I had, or as much of it as we wanted around.

Q. Why didn't you stay on the starboard side when you went over there?

A. I didn't have any business there.

Q. Had you any business anywhere else?

A. Yes, sir.

141 Q. Where had you business?

A. All over the boat.

Q. Can't you give me a more definite answer than that?

A. My business was anywhere I had a mind to work; to help work.

Q. What made you go back to the port side?

A. Because I had nothing more to look at on the starboard side; the bells stopped.

Q. Had you anything to look at on the port side?

A. I didn't go on the port side; I went amidships.

Q. Had you anything to look at there?

A. I may have went there and sat down.

Q. Did you?

A. I don't recollect whether I did or not.

Q. You don't think that I did?

A. No, sir.

Q. You don't recollect how long you stayed there?

A. I did not stay there long; I recollect that.

Q. When did you start to go to the starboard side; when the bell had rung to stop, or to slow, or back?

A. I didn't go to the larboard side.

Q. I said starboard?

142 A. When they rang the bells I walked over to the starboard side.

Q. When they had finished ringing all the bells?

A. Yes, sir.

Q. Did you see at once what was the matter?

A. I supposed he was backing for the steamship.

Q. Did you do anything except to look at her.

A. No, sir.

Q. Did you look at anything else; did you look at the water?

A. I looked ahead; I looked at the water along side when he stopped backing.

Q. When you heard the bell to back again, what did you do?

A. I walked out on the guard again.

Q. Did you stay there until the collision?

A. Yes, sir.

Q. You were there on the guard it was carried away?

A. I was there on the guard when the guard was carried away forward; I was on the guard till it was all done.

143 Q. How long after you got starboard was it, on to the guard, before the crash came?

A. It might have been half a minute or three quarters; somewhere there.

Q. Is that your best recollection?

A. Yes, sir.

Q. Then according to your recollection the crash came about half a minute or three quarters after you got on the starboard side?

A. Yes, sir.

Mr. Van Santvoord read in evidence the direct exam. of Lloyd Granville Sampson.

Mr. Lord read the cross-exam.

Adjourned till to-morrow, April 19th, at 12 o'clock.

144

145 UNITED STATES OF AMERICA,
SOUTHERN DISTRICT OF NEW YORK,
City, County, and State of New York, ss:

Be it remembered, that on this twenty-first day of December, in the year of our Lord one thousand eight hundred and sixty-five, I, George F. Betts, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress, entitled "An act, in addition to an act, entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act, entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call, and cause to be and personally appear before me, at my office, 41 Chambers street, in the city of New York, in the said southern district of New York, in the State aforesaid, Loyd Granville Samson, to testify and the truth to say, on the part and behalf of the libellant in a certain suit or matter of controversy now depending and undetermined in the district court of the United States for the southern district of New York, at New York, wherein Samuel Schuyler is libellant, against the steam-propeller Corsica, her tackle, &c.

And the said Loyd Granville Samson being about the age of thirty-one years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, I did carefully examine the said Loyd Granville Samson, and he did thereupon depose, testify, and say as follows, viz:

I am sailing-master of the steamer Florida; she is a steamship in the federal service; she is at present under orders for [for] sailing; probably we shall sail next Saturday; I don't know where to.

I was sailing-master on her last September; I had been since February, 1865. On the 9th of September, 1865, the Florida was lying at anchor in the stream of the North River, off the Battery, about off Castle Garden, about a ship's length to the New York side of the middle of the river. It was my watch on deck that day from 12 o'clock noon to 4 o'clock p. m. I saw a collision between the steamboat America and the steam-propeller Corsica; that was on Saturday, the 9th of September, 1865, between half past twelve and one o'clock in the day, during

146 the time of my watch on deck that day. The tide was running a very little flood, about high-water, about slack-water, [about slack-water.] The stern of the Florida was up the river, but not directly up, a little diagonally across the river; the place of the collision was above us, further up the river, probably four ships' lengths above us to the north and westward of us; it was to the westward of the line of direction in which the Florida lay. The stern of the Florida was inclined rather towards the New York shore, and not directly up the stream.

When I first observed the America she had just rounded the Battery; her course was diagonally across the river, about headed for a little below the Cunard company's pier at Jersey City; she crossed just above us, between us and the U. S. steamer Rhode Island; she passed astern of us as we were tailing up the river; the Rhode Island was further up the river than we were, and at anchor.

When I first saw the Corsica she was backing out from her dock at Jersey City; that was after I had seen the America, but about the same time; I didn't notice particularly how far she backed, but when I noticed her again she was on her way down the river, heading nearly directly down the river.

I saw the America after she had crossed our stern, and the Corsica
147 was then coming down the river very near her; a few moments after that I saw the America stop, reverse her engine, make a number of revolutions, backing astern, then she stopped her engine, but still had stern-way on her. The Corsica at the same time altered her course more to the eastward; she must have starboarded her helm to have done this; then the collision occurred, the Corsica striking her stem against the starboard paddle-box of the America; the Corsica was probably her length higher up the river than the America at the time of her change of direction to the eastward; that was a very short distance.

Q. On the courses and positions in which the vessels were prior to the collision, and at the time that the course of the Corsica was changed, would there have been a collision if the Corsica had kept her course down the river without that change?

A. I think there would have been no possibility of it. There was nothing in the way of the Corsica keeping her course down the river, nor in the way of her porting her helm till she had passed a long way below where the collision was. Then if she had kept her course, and still more if she had ported her helm, there would have been no collision. I saw the America, just before the collision, stop and back, and previous to her stopping, she changed her course, her head falling off to the
148 southward, which I judge was caused by her starboarding her helm. I did not send boats to the America after the collision, because the Rhode Island sent hers first, but I had mine called away, ready to send. The America appeared to be in a very bad condition, I judged in a sinking condition; she keeled over to starboard at the time of the collision, and boats boarded her on the port side. There was plenty of water for the Corsica, 100 to 150 yards, westward of where she changed her course to the eastward.

Cross-ex'd by Mr. Lord:

When I first saw the America, Castle Garden bore a little to the southward and eastward of us, supposing the river to run due north and south, which it does not. I could not say how far we laid from the New York shore, for I don't know the distance across the river. The Rhode Island laid about three ships' lengths off from us, almost astern of us, but a little to the eastward. By a ship's length I mean about

180 feet. I noticed other vessels in the river, but none very near us. A ship lay at anchor about the same distance above the Rhode Island, but still further over on the New York side.

Q. Did you notice any vessels, large or small, west of the line between you and the Rhode Island?

149 A. I did not. A number of schooners lay over on the flats on the Jersey shore, below the Central ferry pier. I saw one or two brigs lying in the mouth of the East River; no other vessels there that I recollect; none lying between the brigs and schooners. The schooners lay from $\frac{1}{16}$ of a mile below the ferry dock all the way down to Ellis Island; they may have been waiting for a fair wind; the wind was light from the eastward at the time. Those flats extend above the ferry wharf, but not out into the stream. If you strike a line from the Central R. R. ferry dock to Ellis Island, all to the westward of that is shoal water. Almost all the piers above the ferry extend out nearly to the end of the flats. At the end of the piers water is 13 to 15 feet deep. We had seven fathoms water where we lay at anchor; water is not less than $4\frac{1}{2}$ to 5 fathoms deep midway between where we lay and the end of the piers. I did not notice any vessels between us and the Jersey shore above the ferry dock. The brigs that laid in the mouth of East River were about midway between the Battery and Governor's Island, about on the line between the two; I think nearer to Governor's Island. The America passed between us and the New York shore; she was then heading about northwest, assuming the river to run north and south; and the place of the collision bore north and by W.; in my judgment, it was off our starboard quarter. The America passed rather nearer to us than the Rhode Island; when she passed along side she was about half-

150 way between us and the Battery; she might have been nearly five times her length from us when she stopped and reversed her engines. I saw her reverse her engine before she changed her course; I judged after she reversed her engine she put her helm to port, which would throw her stem up the river. At the time when she reversed her engine she was heading about $\frac{1}{2}$ point to the southward of the Cunard steamer piers; she must then have been on that same line of bearing; she was then, if anything, nearest the New York side of the river. I know she reversed her engine, because I saw her wheels stop and turn back. She had then her stern and her port side presented to me. I could see the whole of her stern and of her side both. I have been sailing out and in this port 15 years as master and mate in the merchant service, and sailing-master in U. S. steamers. I have been sailing-master in the navy since Jan'y 1, last. I entered the navy from the merchant service. I couldn't say whether I saw the Corsica when she first straightened her course to go down the river, but I must have seen her soon after. I did not see her make the turn to head down the river. When I first saw her heading down the river, she was a little above the Cunard steamers' wharves, and the America was between us and Castle Garden. The Corsica was about west of the Rhode Island—perhaps a little above that line—when she changed her course to the eastward. The America was between me and her when she changed her course. I had then to look over the America's deck abaft her wheels to see the Corsica;

151 I suppose the Corsica was then nearly in midchannel and about five ships' lengths off from us. The Corsica could not have had time to have changed her course more than a point to the eastward before the collision. The head of the America must have fallen off a point and a half to two points before the collision. I know the time, because it had struck 1 bell, but not 2 bells. I reside at Boston. The America was going about six miles an hour when she passed us.

Re-direct:

I couldn't say whether the Corsica reversed her engine before the collision or not, but I know she had headway on her. The collision occurred in a very short time, in a very few moments after the change of the course of the Corsica to the eastward.

Q. In the positions of the America and Corsica, at the time of the change of direction of the Corsica to the eastward, could the Corsica, by putting her helm astarboard, have gone under the stern of the America?

A. No, sir; there was not room enough. She was too near the America to have done that. The Corsica could have passed under the stern of the America if she had put her helm astarboard high enough up the river. If she had done it a ship's length further up the river she might have cleared the America. She did change her course to the eastward when only about a ship's length off from the America. While the boats remained in collision the America keeled over to starboard, but as soon as they separated she listed over to port.

152 The harbor Coast Survey map shows the bearings of the points about the harbor and the soundings. We use those maps in sailing.

When I have spoken in this examination of courses and bearings, it has been on the assumption that the course of the river was north and south, which it is not; and without that Coast Survey map I cannot give the bearings correctly.

Re-cross:

I have seen that chart within ten days; I see it almost daily. I shouldn't judge the Corsica drew over 14 feet of water.

LLOYD GRANVILLE SAMPSON,
Act. Ensign U. S. N., Sailing-Master U. S. S. Florida.

Subscribed and sworn to before me this 21st day of Dec'r., 1865.

GEO. F. BETTS,
U. S. Com'r.

153 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, George F. Betts, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress, entitled "An Act, in addition to an act, entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act. entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, the witness is material and necessary in the cause in the caption of the said deposition named, and that he is a sea-faring man, bound on a voyage to sea out of this district, and more than 100 miles distant therefrom.

I further certify that due notification of the time and place of taking the said deposition, signed by me, was made out and served on the proctor for the claimants to be present at the taking of the deposition and to put interrogatories, if he or they might think fit.

I further certify that on the twenty-first day of December, in the year of our Lord one thousand eight hundred and sixty-five, I was attended by the proctors for the respective parties, and by the witness, who was of sound mind and lawful age, and the witness was by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the deposition was by me reduced to writing in the presence of the witness, and from his statement, and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of filing the same with my own hand in the court for which the same was taken.

And I do further certify that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in said caption.

In testimony whereof, I have hereunto set my hand and seal this day of , in the year of our Lord one thousand eight hundred and sixty- , and of the independence of the United States the .

United States Commissioner, duly appointed by the Circuit Court of the United States for the Southern District of New York, in the Second Circuit.

154 (Indorsed:) Vol. 19, page 264. United States district court for the southern district of New York. Samuel Schuyler vs. the steam-propeller Corsica, her tackle, &c. Deposition on the part of the libellant, taken before George F. Betts, United States commissioner, on the 21st day of December, 1865.

Filed the 23d day of December, 1865. Ent'd order.

155 United States district court.—Before Hon. Judge Benedict.—April 19, 1866.

SAMUEL SCHUYLER.
vs.
THE STEAM-PROPELLER "CORSICA."

Index.

George L. Garlick.
Frederick LeMessurier.
Henry J. Ward.
Horatio L. McKay.
Andrew Finney.
John Beam.
John Cashman.
Joseph Henderson.
Ezra S. Wolcott, (recalled.)

156

157 George L. Garlick, a witness on behalf of libellant, being duly sworn, testified as follows:

Examined by Mr. Van Santvoord:

Q. You were the agent of the America in 1865?
A. Yes, sir.

Q. Who was her owner?
A. Samuel Schuyler, of Albany.
Q. Did you verify the libel?
A. I did.
Q. Do you know where the Corsica was at the time of the collision?
A. She was in the stream between Jersey City and Governor's Island.

Cross-examined by Mr. Lord:

Q. How long was the America?
A. She is 200 and some 10 or 12 feet; I am not exactly positive.
Q. What is she—a tug-boat?
A. A tug-boat, towing between Albany & New York.
Q. Is she a powerful boat?
A. Yes, sir; one of the most powerful boats on the Hudson River; 70-inch cylinder & eleven-feet stroke.
Q. How high is her main deck from the water?
A. Her main deck from the water, I should think, was about 4 feet or 4½; perhaps it might not be quite as high; that is, when she got her coal and water she would not be quite so high. That is about an average.
Q. Has she any rail?
A. Yes, sir.
158 Q. How high?
A. Her rail is not over about 6 inches high from the deck; 6 to 10 inches. I don't recollect the exact height.
Q. How far amidships are the shafts of her wheels?
A. They are a little forward of amidships. Her shaft is perhaps 15 feet forward of amidships; it might not be quite as much. I never measured it.
Q. How is she painted?
A. She is painted white; her joiner-work and her rail peach-blow, and her guard with India red, a sort of a brown.
Q. She is painted in light colors?
A. Yes, sir; you might say she was white all over, except her rails and the guard piece.
Q. Do you mean the guard-beam?
A. Yes, sir; the guard-beam is painted; the outside of it is painted with India red.
Q. But all the rest of it is white?
A. Yes, sir; except her rails and guard-beam, and some fancy painting on her wheel-work. She has got open wheel-covers, and they are painted, some blue and some red; that is outside of the wheel.
Q. The strips?
A. Yes, sir; the lining inside of her wheel-covers, I think, is painted.
Mr. LORD. No matter about the inside.
WITNESS. That shows on the outside with open wheels.
Libellants rest.

159 Frederick Le Messurier, a witness on behalf of respondents, being duly sworn, testified as follows:

Exam'd by Mr. Lord:

Q. What is your employment?
A. Master mariner.
Q. Have you any engagement with the Corsica?
A. Master of her.
Q. How long have you been master?

A. Since she has been running; three years with her, and three years before; I have been master of sailing ships since 1843.

Q. Were you, previous to having command of a steamship, in any employment in the Cunard steamers?

A. First officer of the ocean mail steamer for seven years.

Q. You have been about 11 or 12 years in the Cunard service?

A. Thirteen years altogether.

Q. Seven to eight years first officer?

A. Yes, sir.

Q. And you have been three years master of the Corsica.

A. Master of the Corsica, and nearly three years before that master of the "Karnack" & "British Queen."

Q. Do you remember the trip on which the collision occurred?

A. Yes, sir; perfectly well.

Q. Do you remember what day it was?

A. Saturday, the 9th of Sept.

Q. At that time, on what day did the Corsica leave her moorings?

A. She steamed out from the wharf a few minutes after ½ past 12 o'clock.

160 Q. How did you go out, head first or stern first?

A. Head first.

Q. When you got clear of the wharf did you feel the effect of the tide?

A. We were set up a little above the wharf by the flood-tide in turning.

Q. How long did it take you to make your turn, so as to straighten down the river?

A. Some 7 or 8 minutes, as near as I can judge.

Q. Did you have any pilot on board?

A. Yes, sir.

Q. Do you remember his name?

A. Josiah Johnson, junior.

Q. How came he to have charge of the vessel?

A. He came on board about an hour previous to sailing, and told me that he was a pilot.

Q. Did he claim to take the vessel out?

A. I don't know what he did; I knew him as a pilot, and, of course, I didn't question his right.

Q. What position on the ship did he take?

A. On the starboard side of the bridge.

Q. Who else was on the bridge?

A. Myself; on the port side.

Q. Who was on the look-out?

A. The first officer; on the forecastle.

Q. Did you see him there?

A. I saw him.

Q. How were the other officers stationed?

A. The second officer near the wheel-house, to give the orders about steering, and the third officer in the waist, to pass the word along

161 to the officer attending to the steering.

Q. How many men at the wheel?

A. Two actually at the wheel, and the third one standing by at the door.

Q. Who is commonly stationed as look-out, when you are mooving out of the dock?

A. The first officer; on all the ships.

Q. The same as the officer who was on duty at this time?

A. Yes, sir.

Q. Is that the rule?

A. That is the rule on all the ships from the time the ship passes the bar at New York, or entering any harbor of narrow water, bay, or river.

Q. At what speed did you start?

A. The engine was going slow.

Q. How many knots?

A. At first it was very slow, and increased to probably 3 knots.

Q. When you were straightened down the river, how far out were you; or, in other words, how large a space did it take to make your turn?

A. About one-third of the distance over from Jersey City, as we headed down, and we ported and stood in shore to avoid some vessels that were on our port bow, more towards the centre of the river.

Q. How near did you draw in towards the shore?

A. About 300 yards.

Q. How far were you then from the Jersey shore?

A. We drew in to within 300 yards from the shore.

162 Q. How soon after you had got straightened down did you see the America?

A. Well, about a minute and a half or two minutes.

Q. Whereabouts in the river when you first saw her?

A. Just below the wharf, and within about 300 yards of the end of the pier.

Q. Did you call the pilot's attention to her?

A. I did; I asked him if he saw that steamer.

Q. What did he say?

A. He said, "Wheel aport," and at the same time waived his hand towards the port side of the ship, as a signal to the officer near the wheel, to starboard.

Q. What then?

A. The order was carried out, and the ship began to pay off.

Q. What was done; starboarding or porting?

A. Starboard.

Q. How much did the ship pay off?

A. She paid off two points.

Q. How far, then, had she got off before she paid off that two points?

A. She probably came once and a half or nearly twice her head and length.

Q. What is her length?

A. 224 feet between the stem and stern pieces.

Q. She had gone then about 440 feet?

A. Somewhere thereabouts.

Q. What happened then?

A. The pilot said, "She is porting, steady;" he gave the order to steady, and the answer came aft.

163 Q. And the order to steady was answered aft?

A. Yes, sir.

Q. Did you notice whether the "America" did or not change her course at that time?

A. I saw that she changed her course from the time when first seen; she threw her bow more towards us.

Q. Which way did that turn her bow?

A. Her head towards the northwest.

Q. About what distance off were you at that time?

A. A little over a quarter of a mile; 500 or 600 yards, probably.

Q. How did she bear from you?

A. She bore then about southeast by half east; about a point on the port bow.

Q. What was the next done, after the order to steady?

A. The order was given to slow and stop the engine.

Q. Was that obeyed?

A. That was obeyed as quick as it could be done; slow and stop, and turn back; the orders were given as quick as I could speak them,

Q. At what rate of speed were you going when that order was given?

A. Probably about 5 or 6 knots through the water.

Q. To what was that speed reduced by that order?

A. Well, she was gradually losing her way all the time.

Q. What order was next given?

A. I saw the collision was inevitable, and I, myself, gave the order to starboard, and the pilot gave it also.

164 Q. Who gave it first, you or the pilot?

A. I could not be certain; I think it is possible I may have given it first, or much about the same time.

Q. At that time how did the America bear from you?

A. She was very nearly right ahead of us; if anything, she was slightly on the port bow.

Q. Was she or not under way?

A. She had headway on, but whether her engine was moving just at that time or not, I could not say; just at the time the order was given by us to starboard, whether her engine was still moving or not, I could not say.

Q. Did the order "hard a starboard" naturally change your course?

A If it did anything, it was very slightly; I did not notice that the ship had lost her way; she answers her rudder very slowly, and the time was so short she could not alter her course a quarter or half a point at the very outside.

Q. How near were you to the America at the time of the order to starboard?

A. Not more than a couple of hundred feet.

Q. Was that order given in a loud voice, or was it merely given loud enough to be heard by the man astern?

A. It was given in an ordinary voice.

Q. How did the pilot give his order, by motion of his hand?

A. He called out, "Starboard."

Q. Did not he move his hand?

A. I cannot say whether he did or not.

165 Q. Did the America change her course at that time?

A. I don't know whether she did or not; I don't think she did; there was not time for her to change it.

Q. How was she heading at the time when that order was given; was she heading by compass?

A. I should judge N. W. by N. of N. W.

Q. She was heading in considerably to the north of west?

A. A great deal to the north of west, nearer north than west.

Q. At the time when that order was given, was there any other way of avoiding the collision?

A. None that I know of. The order had been given to back our engine, and they were backing her as fast as they could.

Q. If you had gone straight on, in place of starboarding, what would have happened?

A. We must have struck the America a few feet further forward; that is the only difference I know it would have made.

Q. Would the blow have been more direct or less direct?

A. More at right angles; more square on; the difference would have been very very slight.

Q. Which would have produced the most damage, a blow straight at the hull, or a glancing blow, such as was given?

A. A blow straight at the hull.

Q. What would have happened the America, if you had struck her going at the rate of 6 knots an hour?

A. We would have cut right into her and sunk her.

166 Q. What would have happened if you had struck her going at the rate of three knots an hour?

A. Do you mean square on?

Q. Yes, sir.

A. The damage would have been greater than it was, giving a glancing blow in that particular part of the ship where we struck.

Q. Could you have ported your helm and avoided the collision in that way?

A. Not when the last order was given.

Q. If, when the order was first given, you had ported your helm, instead of starboarding it, what would have happened if the America had continued on the course which she had then taken?

A. We would have to run right ashore on the flats, or into the wharf. There was very little to port towards the Jersey shore.

Q. Were any vessels lying on the Jersey shore to the west of the course you were taking?

A. There were some schooners at anchor there.

Q. What was the course of the America when you first saw her; how was she heading?

A. Directly across the river; if not to the south of west.

Q. (By the court.) Do you call the river north and south there, when you speak?

A. Northeast by south and west; that is the course of the river up and down, between the Battery and the Central ferry.

Q. (Resp't.) How was your course at the time?

A. Straight down the river.

Q. Your course was then about at right angles to the course of the America?

167 A. As near as can be, as far as I can judge.

Q. How did the America bear; how many points did you say off your bow, when you first saw her?

A. Three points; at the very outside, 3 points & a half; I believe nearer 3 points than 3½.

Q. Off which bow?

A. The port bow.

Q. If she bore three points off your port bow, how many points did you bear off her starboard bow?

A. 4½ to 5 points.

Q. At that time, which was nearest to the point where the collision happened, you or she?

A. I cannot determine that exactly; it is possible that we may have kept our way on longer than she did, being a deeper vessel, a propeller.

Q. Give the length of time, as near as you can, before the collision, when the order was given "hard a starboard"?

A. Do you mean the last order?

Q. Yes, sir.

A. Perhaps 20 seconds; it was certainly not half a minute.

Q. By whose directions were all those manoevers made?

A. By the pilot's order, with the exception of the last order to starboard, I gave myself, as well as him.

Q. He joined you in giving that order?

A. He joined me.

Q. In your opinion, could anything else have been done to avoid the collision?

168 A. Not doing what the America did?

Q. How long has your vessel been running between this port and Havana?

A. Three years; she made 39 round voyages; she had been coming in and out here every 4 weeks.

Q. At what rate was the Corsica going when the two vessels came together?

A. As near as I can judge, from 2 to 3 knots; certainly not at a greater rate of speed than 3 knots an hour.

Q. How long a distance does it take to turn the Corsica two points? Suppose her helm is amidships, and she is going a straight course, how long would it take to vary that course two points to port?

A. It would depend on the rate of speed she was going; if she was going at full speed, it would take very nearly a minute in time.

Q. Suppose she was going at half speed?

A. Well, it would take a little longer.

Q. A minute from what time?

A. From the time the order was given, before it could be acted upon.

Q. How long does it take to throw your helm hard over?

A. Going at full speed it would take two men 25 seconds to get the wheel full over.

Q. How long would it take to change your course one point, if you were going at full speed, from the time when the order was given?

A. From 15 to 18 seconds probably.

169 Q. I mean from the time when the order was given, how long it would take to change the head of your vessel one point?

A. From 15 to 18 seconds.

Q. Could you get the wheel over in 18 seconds?

A. It would not be entirely over, but she would begin to feel it as soon as they began to move it.

Q. She would go one point in 15 seconds from the time the order was given?

A. If she was going at full speed.

Q. How long would take to change her course two points?

A. From 20 to 25 seconds.

Q. I understood you to say it would take two minutes?

A. No, sir.

Q. How far would your vessel go after the order was given "hard astarboard," before her course would be changed one point to port, if she were going at full speed? How far would she go after the order was given to the wheel, before she would change her course one point?

A. She would go one and a half her length to one and three quarters.

Q. How far would she go before she would change her course two points?

A. Well, a little more than twice her length. After once paying her off, she would pay off quicker than she would at first.

Q. Suppose she was going at half speed, how far would she go before she would change her course one point, after the order was given?

170 A. Well, probably a little more than her length.

Q. How far would she go to change her course two points, going at half speed?

A. About once and a half or once and three quarters.

Q. What is the utmost change that could have been made in the direction of your vessel after the order was given "hard a starboard," and before the collision?

A. The difference would not have been much greater if we had not been backing; once we began to back the vessel would lose the effect of her rudder entirely. In backing, her bow falls off to starboard.

Q. That is the greatest change that could possibly have been made in the direction of your steamer after the order was given by the pilot, "hard astarboard," and the collision?

A. It would not forcibly have exceeded half a point at the outside; I believe it was less than that; but it could not by possibility have exceeded that.

Q. How many degrees of the circumference is half a point?

A. Five degrees and 45 minutes.

Q. What difference would that make; what divergence would that make from the end of a 200 feet long? What would be the length of the side opposite an angle of 5 degrees and 40 minutes or 6 degrees?

A. It could not amount to many feet; probably 8 or 10 or 12 feet at the outside.

171 Q. Is there any doubt in your mind that the America had headway at the time that order was given?

A. She had headway; but whether her engine was turning back or not, I cannot say.

Q. But she was moving forward through the water?

A. She was moving forward through the water, but I cannot say as to her engines. The bowsprit intervened between the bow of the ship; I turned round to give orders about the engine to the man aft, and cannot say whether her engine was moving or not.

Q. Why didn't you see the America before you did?

A. There were a number of vessels at anchor there, and I saw her as she came out between two vessels.

Q. Do you know what those two vessels were?

A. I cannot tell you what they were; there were a number of vessels at anchor in the river on that day.

Q. How high is the Corsica above the water?

A. Her deck, in the trim she was in, was about 12 feet, and the bridge where I stood was about 20 feet above the water.

Q. How is she painted?

A. Black outside.

Q. Had she any smoke-pipe above the bridge where you were standing?

A. The smoke is not very far off, and that is painted red, the same as the other Cunard steamers.

Q. How high is that above the deck?

172 A. 25 or 30 feet above the bridge.

Q. How high is that above the water?

A. Well, it is 45 feet.

Q. How large is the smoke-pipe?

A. About 7 feet in diameter.

Q. How much in circumference?

A. 21 feet.

Q. Has she any mast?

A. Two; a full brig-rigged.

Q. Any spars to the mast?
A. She has a lower-mast, top-mast, top-gallant, & royal.
Q. Has she a gaft?
A. She has a fore and main gaft.
Q. Has she any yards?
A. She has yards—foretop, foretopyard, mainyard, and maintopsail.
Q. Were the sails bent?
A. They were; all except the mainsail.
Q. Has she the ordinary shrourds and stays of a sailing vessel?
A. Yes, sir; of a sea-going ship.
Q. What sort of vessels were these two between which the America passed before you saw her?
A. They were large, square-decked vessels; but what they were in particular I didn't notice; there were some brigs & some ships at anchor there.
Q. About how many vessels were at anchor to the west of the course that you were taking?
A. First, below our ferry there were 5 or 6 schooners, and
173 towards the Central ferry there were not as many; two or three, I think, just below her wharf.
Q. Two or three below the wharf of the Central railroad?
A. Those were at anchor below her wharf; but above the Central ferry the place is kept entirely clear.
Q. Were any vessels below the Central R. R. wharf?
A. Not very close over there, that I saw; the course we were following down the river there was a clear passage, not very wide, but entirely clear, well down towards Ellis Island.
Q. Was the course clear to the west of you?
A. I mean clear in the direction we were following; clear to the south. There was a straight passage down, with vessels on each side; but more on the left-hand side.
Q. More on the west side?
A. More on the east side.
Q. But there were less vessels than the west?
A. There were vessels on the western side.
Q. Did you observe what part of the river you were in when you first saw the America, when she came out from these two boats?
A. Yes, sir; about 300 yards from the wharf, on the Jersey shore; from the line of the wharf running along the Jersey shore.
Q. Were you opposite your wharf?
A. A little below our wharf.
Q. How many piers below your wharf?
A. A short distance below our wharf; probably opposite the next one, or the first or second.
Q. One or two piers below your wharf?
174 A. Not as far as two; but between one and two piers.

Cross-exam'd by Mr. Van Santvoord:

Q. How long did you say you had sailed the Corsica as master?
A. Three years; since she was in use first.
Q. Is she a steam-propeller?
A. A steam-propeller.
Q. How many screws?
A. One.
Q. What is her draught of water?
A. On that occasion she screw 17 feet forward and 15 feet 8 inches aft.

Q. Have you commanded also side-wheel steamers?

A. I have not commanded them; I have sailed in them as first officer for a number of years, which was tantamount to captain.

Q. Which will steer quicker—a screw propeller or a side-wheel steamer?

A. When the helm is hard over, a propeller will move quicker; but it will take longer to put it over on account of the force of the water on the rudder by the screw; it takes longer to get the helm over.

Q. Will a screw propeller steer quicker to port or to starboard?

A. It will depend on how her screw works.

Q. As the Corsica's screw worked, would she steer quicker to starboard or to port?

A. To port; the difference is not very great, but there is a difference.

175 Q. How did the screw work on the Corsica?

A. From port to starboard.

Q. (Respond't.) It is what is called a right-handed screw?

A. Yes, sir; the upper part of the screw turns from port to starboard, looking at it from the stern.

Q. (Libellant.) And not from starboard to port?

A. No, sir.

Q. Do you know whether this pilot who came on board had a New Jersey commission or a New York commission?

A. I am not sure any; but I believe it was New York commission.

Q. Do you sometimes sail with a pilot under a New York commission, and sometimes with a pilot under a New Jersey commission?

A. We do, frequently.

Q. Who makes the provision for the pilot?

A. We take the first one that offers at sea, and he generally takes the ship out.

Q. You take the first one that offers at sea coming in, and then you arrange with him?

A. He merely asks the day of sailing, and he comes himself, or sends some one belonging to the same boat; we do not make any arrangements with him.

Q. Then you acquiesced in that arrangement?

(Obj. to by Mr. Lord.)

The COURT. Ask him what he does with reference to it.

Q. Have you, as master, anything to do with the procuring of a pilot when the ship is about to sail?

176 A. Nothing whatever to do with it. The man proceeds himself on board, and I may ask him if he is the pilot, and he says, "Yes;" or probably I know him.

Q. Did pilot did present himself, did he?

A. Yes, sir.

Q. (By the Court.) This particular man brought you in?

A. I don't remember; I don't think he brought me in; I think he belonged to the same boat, or the boat worked for him; I knew the man, and knew he was a pilot, but I don't think he brought us in; I don't recollect positively; I don't think he did; I could not be positive.

Q. (Libellant.) Who makes the shore arrangements for the steamer; you have nothing to do with that?

A. I don't understand what you mean.

Q. Has the steamer an agent in New York to make the shore arrangements?

A. What do you mean by the "shore arrangements?"

Q. In regard to the time of her sailing, or her outfit or equipment?

A. Certainly; Mr. Cunard is the agent here.

Q. Your duty, I suppose, commences when the pilot comes on board, and the ship is ready to sail?

A. It goes a great deal beyond that; I attend to the ship and see that everything on board of her is kept in order; and the crew. My duty never ceases in regard to the ship.

Q. You never made any arrangement before a ship sailing in regard to having a pilot come on board?

177 A. No, sir; never.

Q. You never did such a thing?

A. Never.

Q. But you do know that the pilots who have taken you out of port have sometimes been under a New Jersey commission, and sometimes under a New York commission?

A. Yes, sir; I know that; for I know there are either 3 or 4 boats that got their commission in Jersey.

Q. When you came out from the trip on which this collision happened, how did you come out into the river?

A. Head first.

Q. Did you come out into the river or did you go up and turn around down?

A. As we came out the tide took her up a little, and she swept up a little way before she headed down.

Q. She swept up with the tide a little before she headed down?

A. Yes, sir.

Q. Did she sweep up as far as Jersey ferry?

A. Yes, sir; rather beyond before her head was turned down.

Q. She swept up then above the Jersey ferry before her head was turned down?

A. Yes, sir.

Q. How far above?

A. I could not say the exact distance above, but 2 or 3 wharfs above before she got finally down; she was out some little distance in

178 the river then; we had to port to clear the vessels that were towards the middle of the river.

Q. Then she came around down the river with the helm ported?

A. Yes, sir.

Q. How far to the westward was she when she came down the river?

A. Her helm was kept aport, and she steered around down and steered in toward the Jersey shore.

Q. Then was the helm put astarboard to straighten her down the river?

A. The helm was steadied to get her down the river—starboarded and steadied.

Q. Starboarded her first?

A. The order was first given, "Steady," and then she was starboarded a little till she headed down.

Q. First "steady," and then starboarded a little in order to head her straight down the river?

A. Yes, sir.

Q. She continued on straight down the river, did she, until the time of this second order to starboard?

A. The starboarding was before the America was seen at all; before we came abreast of our wharf.

Q. That is the first starboarding?

A. The first starboarding after leaving the wharf.

Q. After leaving the wharf, the first starboarding was when you got down where?

179 A. Before we got down, and steering in towards the Jersey shore; before she got abreast of our wharf she was starboarded a little to head her down straight.

Q. That was after you got abreast of your wharf that you first saw the America?

A. Some little distance below—between one & two piers below.

Q. How far off do you say she was then?

A. Well, from half to probably two-thirds of a mile.

Q. And she stood then three points off your port bow?

A. She bore three points on our port bow; three points, or it may be a little over; not certainly three points and a half.

Q. And then after that was your helm put astarboard?

A. As soon as I could call the pilot's attention to it the order was given to starboard, and it was put astarboard, and she paid off to the eastward.

Q. And the America paid off to the eastward?

A. The Corsica, in answer to the order to starboard the helm, paid off towards the left—to the eastward.

Q. What was the object of that manouvre?

A. To pass the stern of the America.

Q. How much did that change the course of the Corsica?

A. Two points to the eastward.

Q. And then did she continue on that course?

A. For a very short time, and the pilot said, "She is porting," and gave the order to "steady."

Q. Do you mean starboarding?

180 A. He said, "She is porting," meaning the America, and he gave the order to steady on board of our vessel.

Q. What was done on the Corsica after she put the helm astarboard, and seeing the America first? To steady? Was that the next thing done on the Corsica? You say after she first saw the America the order was given to put the helm of the Corsica astarboard?

A. Yes, sir.

Q. Was it put hard astarboard?

A. It was put astarboard; I don't know whether it had got hard over, for it would take some time to put it over. The ship had paid out two points.

Q. It was put to starboard, and kept there until she paid off two points?

A. Yes, sir.

Q. What was done then?

A. Then it was steadied.

Q. And kept on that course?

A. The engines were instantly stopped; the order was instantly given to slow and stop and turn back, when the order to steady was given.

Q. How far off was the America then?

A. She was a very short distance off.

Q. What is your idea—that the America was at any time to the westward of the course of the Corsica?

A. Not to the westward.

181 Q. Nearer to the Jersey shore than the Corsica?

A. No, she was not nearer the Jersey shore than the Corsica at that time, until the collision.

Q. At the time of the collision was she nearer the Jersey shore than the Corsica?

A. Her bow was a little nearer—a length of her bow nearer; that was very slight.

Q. Was the bow of the America at the time of the collision as near the Jersey shore as the stern of the Corsica?

A. There would not be much difference between the two; about the same, I should judge.

Q. Did you make a report of the circumstances of this collision to Mr. Franklin after you got down to the Hook?

A. I sent them a short account of it.

Q. Do you remember the account you gave of the circumstances of the collision in that letter?

A. The same as I have given here.

Q. Are you quite sure that the helm of the Corsica was put to starboard after the America came in sight; was seen from the Corsica more than once?

A. Certainly I am, sir; that is, the last time it was given; I didn't see it, but the order was given, and I believe it was on the second time. The first time I know it was put over.

Q. The first time it was put over; but the second time you don't know that it was put over?

A. The order was given; I presume it was. The time was so short before the collision, I didn't turn round to see if they were. The
182 order was given and reported from aft by the officer there to say that the order was executed.

Q. You don't know yourself that the order was executed twice after seeing the America?

A. No, sir.

Q. You know the order was given after the America was first seen, and then the helm was put over?

A. Yes, sir; I observed that.

Q. And afterwards, immediately before the collision, the order was given to put it astarboard; but whether that order was executed or not you don't know?

A. I cannot swear of my own knowledge it was, but I have every reason to believe it was. The order was answered by the officer who was there to see it executed.

Q. How soon was that before the collision?

A. A very short time—not half a minute.

Q. Not half a minute by the watch?

A. By the watch.

Q. Had you observed whether the America was stopped in the water previous to the time the first order was given to put the helm to starboard?

A. No, sir; I didn't see her stop.

Q. You don't know whether she was backing at any time before the collision?

A. I cannot say of my own knowledge; I cannot say anything about her engine; I know at the time of the collision she had headway on.

Q. What circumstance is there that you know that will satisfy any one else but yourself that that was so?

183 A. There were some vessels below in a line across there.

Q. What part of the deck were you on?

A. I was on the port side of the bridge.

Q. Where is that?

A. A little forward of midships; the bridges are raised above everything on deck, where the officer on the watch stands.

Q. A little forward of midships?

A. Yes, sir.

Q. For what purpose were you there?

A. I was there to assist and see the ship out of port; and whenever the pilot wanted work done I would give the orders myself to the engineer.

Q. After first seeing the America, and the first order to put the helm astarboard, how was the Corsica standing; was she standing then straight down the river?

A. After the order?

Q. After the first order?

A. No, sir; when she paid out two points she was heading to the east of the straight course down the river.

Q. The idea you mean to convey is this, that at the time of what you call the second orders, she was not standing straight down the river?

A. No, sir.

Q. But was standing to the eastward?

A. A little to the eastward of a straight course down the river.

Q. Before this order was given to put the helm astarboard, was she standing straight down the river?

184 A. Straight down, as near as I could judge.

Q. As near as you can judge, she was standing straight down the river before the first order to put the helm astarboard was given?

A. Yes, sir; after the America was seen.

Q. Then after the America came in sight, there was no serious change in the direction of the Corsica to the eastward, until the time of the collision?

A. There were two points of change in the direction.

Q. There were two points upon what you would call the first order to put the helm astarboard?

A. Yes, sir.

Q. And that was the only change to the east?

A. On the second order the change might have been a quarter of a point or half a point, but I don't believe it exceeded that.

Q. It was not over one quarter or half a point, if there was any change at all?

A. If any change at all.

Q. How is the helm of the Corsica carried when she is going on a straight line; is it carried amidships or on one side to allow for the effect of the screw?

A. In smooth water, I believe about midships, as far as I know. In carrying sail, she, what we call, "gripes;" is inclined to come to windward, and you have to keep the helm a little over whichever way the wind is.

Q. Don't her wheel pull her off, one way or the other, in smooth water?

185 A. I have never noticed her do that; it is possible she might carry the helm a little more one side or the other, but I have never noticed it.

Re-direct:

Q. You were noticing the America carefully from the time you first saw her?

A. I was.

Q. Your attention was directed to her?

A. It was.

Q. Was that of the pilot, also?

A. He was looking forward, and I presume he was—he must——

Re-cross:

Q. Had the pilot seen the America before you called his attention to her?

A. I have no reason to believe that he had. He was on the starboard side of the deck, and I was on the port, and I looked direct that way, and I think I saw first; he didn't say that he seen her.

By the court:

Q. The propeller rolls that way—backing—supposing that to be the bow of the vessel?

A. A little this way.

Q. And that will throw her bow how?

A. To the starboard. Her bow always falls to the starboard when she has got any headway on.

Q. Is that enough to counteract the effect of the rudder, as long as she has any headway through the water?

A. As long as she begins to back she don't mind her helm; she always falls off to starboard; I cannot account for it, but that is
186 the fact. If you back her without any headway on, her head invariably falls to starboard.

Q. Before she gets stern-way on?

A. Yes.

Q. (Respond't.) Once she begins to back, even if she has headway on her, her head invariably falls to starboard?

A. Yes, sir.

Q. Was she backing at the time the second order to starboard was given?

A. The order had been given; she was backing before the collision took place. The backing could not have much effect on the ship at the time of the collision. The order had been passed down, and they were in the act of starting the engine previous to it.

Q. First, as I understand, was the order to starboard?

A. Yes, sir.

Q. And that was given first after the pilot saw the America?

A. Yes, sir.

Q. Then the pilot gave the order to steady?

A. The next order was to steady.

Q. That order was given when the Corsica had fallen off about two points to the eastward?

A. Yes, sir.

Q. After that order to steady was given, how long was it before the order to hard astarboard was given?

A. A very short time—not more than half a minute—from 25 to 30 seconds, probably.

Q. Was the order to slow, stop, and back given before or after the second order to hard astarboard?

187 A. The order to slow and stop was given immediately the pilot gave the order to steady.

Q. When was the order to back given?

A. All following one another—within 2 or 3 seconds of each other—as quick as they could.

Q. Did the order to back follow the order to slow and stop, or the order to hard astarboard?

A. I cannot be positive which one was passed first; they were all

within a few seconds of each other, but whether they were before the other or not, I cannot say.

Q. As fast as those orders could be given they were given?

A. They were given.

Q. They were all given as soon as they could be given, after the order to steady?

A. Yes, sir.

Q. Was there time to put the wheel over to starboard after the last order hard astarboard was given?

A. There was time to put the wheel over before the collision took place, but I don't believe it had any effect on the ship, or very trifling.

Q. Was there time, before the collision took place, to have the order to back executed and produce any effect?

A. Not to produce a great deal of effect; it was executed, and she was moving back before the collision took place.

Q. Then before the collision took place your helm was just put hard astarboard, and the vessel was backing?

A. And the vessel was backing at the time of the collision.

188 Q. And the effect of putting the helm hard astarboard would be to put your bow to port, if you had not been backing?

A. If we had not been backing.

Q. Did the reversing of your propeller check the effect of starboarding the helm?

A. I didn't see whether it did or not; it would have that effect.

Q. If it produced any effect, it would be to check the starboarding?

A. It would be to check the starboarding.

Re-cross:

Q. How were the orders passed to slow and stop and back?

A. By word of mouth; a man standing on the after part of the deck, and the other on the engine sky-light.

Q. To whom did you pass the word?

A. To the man who stands on the bridge, within 6 feet of me.

Q. Within 6 feet aft?

A. Six feet further aft than I was.

Q. Where did he pass it?

A. He stands on a level with the bridge, this first man, and the other man on the main deck, with his head nearly on a level with the upper part of the boat.

Q. He passed the order to the man on the main deck?

A. Yes, sir.

Q. And that man passed it to whom?

189 A. To the engineer in the engine-room.

Q. Where is the engine-room?

A. Just abaft the bridge; just abaft midships.

Q. It is below deck?

A. Below deck; the engineers were standing just below this sky-light.

Q. The orders to slow, to stop, and to back were all passed in the same way?

A. In the same way.

Q. By word of mouth, in the way you have described?

A. Yes, sir.

Q. The signals were not given by bells?

A. Not by bells.

Q. But in the ordinary navigation of the ship are they not given by bells?

A. We have the bells, but don't usually use them, except as a signal to the engineer to stand by the engine—a warning signal.

Q. I think you stated how long an interval there was between the second order to port and the collision?

A. At the outside, half a minute or less.

Q. How long was the interval between the first order to starboard; I mean the first order after the America came in sight?

A. It may have been a minute & a half.

Q. How was that order passed; from the bridge to the man at the wheel aft?

A. The order to starboard?

Q. Yes, sir.

A. It was called out, & also a waive with the hand.

Q. To a man at the helm?

190 A. To the officer that stands near the man at the helm to see the order carried out.

Q. That order is passed to a man who stands near the helm, and he passes it to the man at the helm?

A. The man generally hears it, but he is there to see it carried out.

Q. Who is the man that answers to the orders?

A. The officer who stands there; he repeats them either by mouth or by the hand.

Q. What was the distance aft on the Corsica from this bridge to the wheel, or the place where the officer at the wheel stood?

A. Well, it is near 100 feet.

Re-direct:

Q. Why don't you use bells as common signals to the engineer; why do you pass it by word of mouth instead of having it by one or two bells?

A. Because mistakes have arisen in several ships in the service by the use of bells, and we prefer not using them.

Q. Which is the quickest way, to pass it by word of mouth or by bells; suppose you want to give signals that will require three bells to be given at different intervals, which is the best?

A. There is very little difference, the distance is so short; the difference between the two would be very slight; one would be as quick as the other.

Q. Which is the quickest way to employ, the men or the bells?

191 A. The men are not there for that purpose; they are there for general purposes; it is going in and out of port that they are required to be there.

Q. You do it by word of mouth for extra caution then?

A. Yes, sir.

Henry J. Ward, a witness on behalf of the res'pd'ts, being duly sworn, testified as follows:

Exam'd by Mr. Lord:

Q. What is your business?

A. Chief engineer of the New Jersey Central R. R. ferry.

Q. Did you see this collision between the America and the Corsica?

A. I did.

Q. Where were you at the time?

A. I was on the next wharf below the ferry on the Jersey City side.

Q. Whereabouts in the river did it happen; how far up the river?

A. It was very little above our ferry slip; I should judge abreast of the coal-yards, or pretty near.

Q. How far out were the two boats from the Jersey shore of the river when they came together?

A. I should judge they were about one-third of the way from Jersey City towards New York.

Q. How far apart were they when you first saw them?

A. About one, two, or three boats' length.

Q. How was the Corsica going?

A. The way she appeared to be going from where I stood, was
192 pretty near straight down the river, pretty near abreast of it.

Q. About what rate of speed?

A. I should judge from 2 to 3 miles an hour.

Q. How was the tide?

A. Flood-tide; the tide was running up at the time.

Q. Where was the America at that time?

A. The America was coming across towards the Jersey shore, pretty near on the straight course.

Q. How was the America heading at the time the two boats came together; was she heading across, or down, or up the river?

A. The America, I should judge, was heading, if anything, a little up the river.

Q. Pointing to about what place?

A. Well, pointing for the coal-yards, I should judge.

Q. Was she under headway?

A. I should judge she was some, sir.

Q. About what?

A. Well, I could not exactly tell.

Q. According to your best judgment?

A. Well, I suppose about a mile or two headway.

Cross-exam'd by Mr. Van Santvoord:

Q. Do you know whether the America before that had been slowed and stopped and backed, & stopped backing?

A. Her engines were working at the time, but I could not tell which way at the time of the collision.

Q. Was the engine working at the time you first noticed the position of the America?

A. Yes, sir.

Q. But which way it was working you don't know?

193 A. I don't know; the boat was nearly head on to where I stood; we went off with one of our propellers to assist her in.

Q. Where were you?

A. I was on the lower dock, at least the first dock below the ferry slip on the Jersey City side.

Q. Which ferry?

A. On the Central ferry.

Q, That is below the Morris canal basin?

A. Yes, sir; just below; it is on the lower side of it.

Q. What first called your attention to the collision?

A. I was standing on the dock talking to the captain of one of our propellers, and happened to look in that direction, and saw the boats coming together; I made the remark at that time, "We had better get a boat and go off to help them; there is going to be a collision."

Q. You saw them; just as they were coming together?

A. Well, within a boat's length or two of coming together.

Q. Could you see an opening between the boats as you looked up the river?

A. Yes, sir; it was nearly a direct line across; very little above our ferry, from where I stood.

Q. Where would a line from you, passing across the place where those boats were at the time, strike the New York shore?

A. I should judge about either pier 3 & 4 upon the New York side.

Q. On the North River?

194 A. On the New York side.

Q. On the New York side of the North River?

A. Yes, sir.

Q. Not on the East River?

A. Oh, no, sir.

By the court:

Q. At this time, when they struck, how do you say the America was pointing?

A. Very near across the river.

Q. With reference to you, how was she pointing?

A. I should judge, if anything, she was pointing a little up the river; I suppose about a point.

Q. From you?

A. From me.

Re-direct:

Q. When you first saw them, you saw that the collision was inevitable, didn't you?

A. Yes, sir; so much so that we started with a propeller to assist her.

Horatio L. McKay, a witness on behalf of the resp'd'ts, being duly sworn, testified as follows:

Exam'd by Mr. Lord:

Q. Are you in the Corsica?

A. Yes, sir.

Q. In what capacity?

A. First officer.

Q. How long have you been in that capacity on her?

A. Two years.

Q. Were you so at the time of her collision with the America?

195 A. I was.

Q. Do you remember the collision?

A. Yes, sir.

Q. What day was it?

A. Saturday.

Q. What day of the month?

A. The 9th of September, 1865.

Q. About what time did you leave your moorings on that day?

A. A little before half past 12, or a little after; I am not certain.

Q. You moved out into the river head first?

A. Yes, sir.

Q. Did you feel the tide at all?

A. Yes, sir; felt a little flood.

Q. Where did that carry you?

A. It carried us a little up the river.

Q. How far up the river.

A. From 100 to 200 yards above our dock, or 300 yards; I am not certain; broadside on.

Q. Did it carry you as high as Jersey City ferry?

A. It might; I didn't observe.

Q. You started and came down?

A. Yes, sir.

Q. How far out into the river did you have to go, in order to make your turn to come around?

A. I don't think we went quite half-way into the river.

Q. When you straightened and came down, how near did you go to the Jersey shore of the river?

A. Perhaps one-third of the way from the Jersey shore.

Q. How soon after you straightend down did you first see the
196 America?

A. 15 minutes; 10 or 15 or 20 minutes; I am not certain.

Q. When you left your moorings, how were you and the other officers and men stationed?

A. I was placed in the forecastle head, and the second officer at the wheel-house, and the third officer in the waist, and the captain on the bridge?

Q. Who was with him?

A. The pilot.

Q. For what purpose were you stationed on the forecastle?

A. To look out chiefly.

Q. For what purpose was the man stationed at the waist?

A. To pass the word to the second officer.

Q. For what purpose was an officer put at the wheel-house?

A. To see that the orders were carried out in steering.

Q. Are those the positions which these officers always take when you are leaving your moorings?

A. Always.

Q. When you first saw the America, whereabouts was she?

A. She was about 2 points on the port bow.

Q. What distance off from you?

A. Perhaps 400 or 500 yards.

Q. What part of the river was she in?

A. She looked to me in a line off Castle Garden.

Q. Why didn't you see her before?

A. Some vessels were in the way, and I just saw her as she came out between to vessels.

197 Q. Where were you when you first saw her?

A. Do you mean the ship?

Q. Where was your ship?

A. We were about one-third off the Jersey shore—perhaps less; I think it was a little less out; I think a little above the Central ferry when I first saw her.

Q. How did the America seem to be going?

A. She appeared to be crossing our bows, steering as if she wanted to cross our bows, a little to the southward of right angles of our course.

Q. Did you hear any order given shortly after you saw her?

A. Yes, sir.

Q. What was the order?

A. Starboard.

Q. Who gave that order?

A. I don't know who gave it; I heard it; I heard the order given distinctly.

Q. Did you notice whether you paid off any?
A. Yes, sir; I noticed we paid off.
Q. How much did you pay off?
A. Perhaps two points.
Q. Was any order given after that?
A. Yes, sir; I heard the order "steady."
Q. And how long was that order to steady given after the first order to starboard?
A. Perhaps a few seconds; I could not say; 20 to 30 or 40 seconds.
Q. Was it less than a minute, according to your best recollection?
A. Yes, sir; it was less than a minute.
198 Q. Was any order given after the order to steady?
A. Yes, sir; after the order to steady was given, I heard the orders given to slow, stop, and turn back at full speed.
Q. Did you hear an order "hard astarboard" afterwards?
A. Yes, sir; I heard an order "hard astarboard" after that.
Q. Was that order "hard a starboard" given after or before the order to back?
A. Given after the order to back, immediately after it was given; at most in the same words.
Q. How far off were you from the America when this order "hard astarboard was given?
A. I don't think we were above 100 feet off, if we were that, at the last order, or a little less.
Q. Was it given in the ordinary voice of command, or was it louder than usual?
A. No, sir; in the ordinary voice of command.
Q. Just the same as the other orders?
A. Yes, sir.
Q. How did the America bear from you when this last order "hard astarboard" was given?
A. Right ahead then.
Q. How long did you remain in the forecastle after that order "hard astarboard" was given?
A. I came off immediately afterwards.
Q. Why did you leave the forecastle?
A. I left for my own safety.
199 Q. You saw that a collision must happen?
A. Oh, yes, sir; I saw long before that, that a collision was inevitable.
Q. Where did you go?
A. I ran aft.
Q. How far aft did you get before the collision happened?
A. Perhaps 50 or 60 feet aft.
Q. How did the Corsica hit the America?
A. We struck obliquely.
Q. What became of the Corsica's bowsprit?
A. It was carried away and turned up and thrown in on board of the Corsica.
Q. What turned it up?
A. I don't know; I imagined it was her paddle-boxes or beams; I didn't see it at the time.
Q. You didn't see it?
A. I didn't see it.
Q. When the last order hard astarboard was given, did you notice whether the America had any headway?

A. Yes, sir.

Q. Did you notice whether she had made any change in her course before that?

A. Yes, sir; she had ported before that.

Q. How much had she changed her course by porting?

A. Perhaps 2 or 3 points.

Q. How long before the order to hard astarboard was given, had the America so changed her course?

A. The first order?

Q. How long before the first order hard astarboard was given,
200 did the America make that change in her course?

A. I don't clearly understand you.

Q. The order was given "hard astarboard," just before the collision?

A. Yes, sir.

Q. How long before that order was given did the America make that change in her course by porting?

A. A few seconds; she was changing her course all the time, I imagined.

Q. How long was it after the first order to starboard was given, before she commenced changing her course?

A. I don't understand the question.

Q. The first order was given to starboard?

A. Yes, sir.

Q. Then there was a second order given "hard a starboard?"

A. Yes, sir.

Q. Did the America begin to change her course before the order to steady was given?

A. Yes, sir; I think she had.

Q. And she continued changing her course?

A. Yes, sir; I observed when the America ported her helm, we then steadied; because I imagined the first time I saw her she was going to cross our bow, and then I heard the order given to starboard, and then I saw she was porting, and immediately after that we steadied and
201 stopped and turned back, and after that I seen the collision was inevitable any way. When I first saw her, she was crossing our bows, a little to the south of right angles of our course.

Q. If she had kept her course across your bows without stopping, and you had kept on starboarding instead of steadying, would the collision have happened?

A. No, sir; it would not.

Q. What was the collision owing to?

A. To negligence on their part.

Q. Negligence in doing what?

A. In the first place, she was only two points from our direct course, and we were 5 or 6 points from their direct course; when I saw our helm going starboard, I thought we were going under her stern; and immediately after I saw they had ported their helm, I knew the collision was inevitable, because we could not stop our way; we were going 5 or 6 knots at that time, but after they did port their helm, they kept going ahead.

Q. How heavy was the blow; did it start you off your feet?

A. No, sir; it didn't start me.

Q. Where were you standing at the time the blow was given?

A. About 50 feet from where I was stationed first.

Q. What part of the ship?

A. On the main deck.

Q. Were you holding on to anything?

202 A. No, sir.

Q. It didn't start you from your feet?

A. No, sir.

Q. What could have happened if you had struck the America, going at 6 knots an hour, and struck her a direct blow?

A. We would have cut her through.

Q. What would have happened if you had struck her a direct blow, going three knots an hour?

A. I don't know exactly.

Cross-examined by Mr. Van Santvoord:

Q. What were you doing forward before the collision?

A. I was stationed there to look out and pass the word if any boats or anything were off our bows.

Q. How far forward on the Corsica?

A. The extreme end.

Q. Had you seen the America before what you call the first order to starboard?

A. Yes, sir; I seen her before that, a second or two before the first order to starboard.

Q. Did you call the attention of the pilot to it?

A. Yes, sir; I pointed it to him, and I looked aft and saw it; the captain and pilot were looking towards it, and were beckoning to starboard.

Q. The captain and pilot saw it as soon as you did?

A. Yes, sir; I should imagine so.

Q. And immediately on discovering her, was that order given to put the Corsica's helm astarboard?

203 A. A second or two after I saw her—I don't know whether they saw her before or after me—I looked aft and saw they were putting the helm astarboard.

Q. How far off do you think the America was at that time?

A. Three or four or five hundred yards; I could not say exactly.

Q. How was she standing?

A. To the south'ard of right angles of our own course; say we were steering south, she would be steering about W. S. W.

Q. After the first order to put the helm of the Corsica a starboard, was her course changed from a course straight down the river?

A. Was our course changed?

Q. Yes, sir.

A. Yes, sir.

Q. Then the first order to starboard was given long enough before the collision to change the course of the Corsica from one to two points?

A. Yes, sir.

Q. How long have you been on the Corsica?

A. Two years.

Q. Do you know whether she sheers quick?

A. Yes, sir; I know she does.

Q. In how many lengths would she sheer one point after the helm was put astarboard?

A. What speed?

Q. Well, six miles an hour.

A. Perhaps a length and a half of herself.

Q. She would sheer two points?

A. One point you said?

204 Q. Would two points require twice that?
A. No; not quite.
Q. After she began to sheer, she would sheer the second point something quicker?
A. Decidedly.
Q. Do you know what was the course of the Corsica before the first order was given to put the helm astarboard?
A. The course by compass?
Q. No; in reference to the river; was it straight down the river?
A. Yes, sir; going about straight down.
Q. (By the court.) How with reference to Ellis Island?
A. The island was on the starboard hand, going straight down.
Q. (Libellant.) Do you know how the Corsica carries her helm when she is going on a straight course?
A. What speed?
Q. Six miles an hour?
A. She carries it almost amidships; I don't know but she does, going six miles an hour.
Q. At a greater speed of twelve knots?
A. The same; she does not go twelve knots; she don't steam twelve knots.
Q. When she backs does she fall off either way?
A. Yes, sir.
Q. Which way?
205 A. When she is going ahead, if she backs, her bow will go to starboard, her stern to port and back again; but if she is lying quiet and then backs, sometimes the bow goes one way and sometimes another; it is difficult to tell which way it is going; when she is backing and has headway on her, her bow will go to starboard.
Q. (By the court.) No matter which way the wheel is?
A. No matter which way the wheel is.

Re-direct:

Q. Did you hear any bells on board of the America?
A. I did not.
Q. Did you see how her engine was working?
A. Yes, sir.
Q. How was it working?
A. Turning ahead.
Q. How do you know it was not reversed?
A. I saw the wheels.
Q. Did you see any quick-water in front of the wheels?
A. No, sir; I saw the quick-water behind her.
Q. What speed had the Corsica when she first straightened down?
A. When she first straightened down, slow; going perhaps two or three knots.
Q. Was that speed increased afterwards?
A. I believe it was, sir.
Q. To what rate?
A. Perhaps four or five at the utmost.
Q. How long was that before the order starboard was given that the speed was increased?
206 A. I should imagine about the same time I looked over, and I thought she was going about four or five knots.
Q. When the collision occurred, at what speed were you going?
A. About three knots, I think.

Q. What is the highest speed that you have ever made?
A. In steaming along?
Q. Yes, sir.
A. Ten knots is the highest I ever made.
Q. What is the best speed you ever made, going in and out of the harbor?
A. Eight knots; eight and a half at the outside. We carry a low pressure of steam going in and out of the harbor.
Q. What pressure of steam had you at this time?
A. I really don't know.

Re-cross:

Q. When the Corsica is going ahead, will she throw the water up in front of her bow?
A. She does.
Q. Will she throw the water up in going at the rate of six miles an hour.
A. She will.
Q. How high?
A. Perhaps about eight inches, or a foot perhaps.
Q. Would she throw it up going at the rate of three miles an hour?
A. She would.
Q. How high?
A. Half that.

207 By the court:

Q. I understand you to say you saw the America porting?
A. I did.
Q. If you had not starboarded your wheel, how would you have passed her then, and the America had ported? If you had kept on your course and the America had ported hers?
A. I think she would have struck us in the waist; instead of us striking her in the waist, she would have struck us in our port waist.

By Mr. Van Santvoord:

Q. When you say you saw her porting, do you mean to say you saw her helm put aport?
A. No, sir; I saw the direction, I saw the wake behind her.
Q. It is your inference from what you supposed to be a change of direction?
A. Yes, sir.

Re-direct:

Q. How did you infer the change of direction? What do you mean by saying you saw her wake behind?
A. The quick-water behind from the wheels; I saw it was not straight behind her.
Q. It was in a curve?
A. Yes, sir; and more up the river than she was.
Q. (Libellant.) Was the tide flood?
A. Yes, sir; the last of the flood.

208 Andrew Finney, a witness on behalf of the resp't, being duly sworn, testified as follows:

Examined by Mr. Lord:

Q. What are you on the Corsica?
A. Chief engineer of the Corsica.

Q. Were you so at the time of this collision on the 9th of September?
A. I was.
Q. Where were you when the ship left her moorings that time?
A. Standing by the engines.
Q. What other persons were you with in the engine-room?
A. The second and third engineers.
Q. Who had charge of the engines?
A. I had charge of one, and the third engineer had charge of the other engine.
Q. After you left your moorings what speed did you have at first?
A. First, slow.
Q. What pressure of steam did you have on?
A. About eighteen pounds.
Q. How long did you continue slow?
A. A very short time, as soon as we got clear of the dock.
Q. What speed then did you have, after you got clear of the dock?
A. Half speed.
Q. How long was the order to half speed given before the collision happened?
209 A. From the time after leaving the dock.
Q. How long was the order to half speed given after you left the dock?
A. We slowed after we got in the middle of the river.
Q. What did you do after slowing?
A. We increased the speed after that.
Q. Do you recollect any orders to slow, stop, and back?
A. Yes, sir.
Q. How long before the collision were they given?
A. I should say from the time the first order was given till the collision took place would be about three to five minutes; I could not exactly say.
Q. Were those orders obeyed instantly?
A. They were.
Q. Was the engine backing at the time of the collision?
A. It was.
Q. How many revolutions backward had you made when the collision happened?
A. I could not exactly say how many revolutions she had made, but the engines were both in gear and going back, and all the pressure of steam on them.
Q. You backed then at full speed?
A. Full speed.
Q. Suppose the orders had to be given when you were going forward at full speed, how would they have to be given?
210 A. Half speed, slow, and stop her, and then back her.
Q. You have to go through these orders in order to back at full speed?
A. We are in the habit of receiving these orders.
Q. And you have to go through these orders in order to back at full speed?
A. Yes, sir.
Q. Where were you when the collision happened?
A. In the engine-room.
Q. Was it much of a blow; did it stagger you?
A. No, sir.
Q. Did you know what happened?

A. I felt that the ship had come in contact with something, but it was very soft.

Q. What was the best speed you made after you left the dock, and before you came in collision with this vessel?

A. I could not say what speed the ship was going.

Q. But judging from your engine?

A. The engine was going about ten revolutions.

Q. That is the highest that you were ever making?

A. We made more than that, a little more than that; perhaps, about fifteen revolutions, before we got orders to slow, stop, and turn back.

Q. You made about fifteen revolutions at full speed, before you got the orders to stop, slow, and back?

A. Yes, sir.

Q. How many revolutions, going at full speed, do you make in a minute?

211 A. Going at full speed with our highest pressure we go about twenty-five.

Q. And this time you made about how many?

A. We were making about fifteen revolutions at the time.

Q. How many revolutions in all, do I understand you, that you made after the order to full speed was given, before the orders to slow, stop, and back?

A. I could not say how many revolutions were made.

Q. Can you judge how long a time it was?

A. From the time the first order was given to full speed?

Q. Yes, sir; until the orders to slow, stop, and back were given?

A. It was a very short time; probably about a minute and a half, or thereabouts.

Q. By whom were the orders transmitted to you, from the bridge?

A. From the captain to a man on the bridge beside him, and from him to a fireman above the engine-room hatch.

Cross-examined by Mr. Van Santvoord:

Q. When it is desired to stop and back, is the first order given half speed, then slow, then stop, and then back?

A. Yes, sir.

Q. Four orders were given?

A. Yes, sir; four orders were given.

Q. What do you do when you get an order to half speed?

212 A. Shut the throttle-valve.

Q. How far?

A. Leave it open about half an inch.

Q. Then how do you slow after that?

A. Shut it altogether.

Q. After you shut the throttle-valve altogether, then the engine stops itself, don't it?

A. No, sir?

Q. Does the engine keep going after the throttle is shut?

A. She goes dead slow after the valve is shut.

Q. Then the closing of the throttle on the Corsica don't prevent the steam getting into the cylinder?

A. A little gets in.

Q. Then after you have partially closed the throttle on the order to half speed, and then closed it on the order to slow, do you open the throttle again on the order to back?

A. I have not stopped the engine yet.
Q. You know you have stopped it?
A. Yes, sir.
Q. How is that done?
A. I throw the engine out of gear.
Q. Then what do you do next?
A. If I get orders to turn back, I turn back; giving the steam on opposite sides to the pistons.
Q. Then you turn back and give it steam?
A. Yes, sir; the other way; we must throw the engines out of gear before we can put them back.
213 Q. Then when you back, do you let on the steam again and open the throttle?
A. Yes, sir; decidedly.
Q. You went through those different manouevres to half speed, slow, stop, and then reverse?
A. Yes, sir.
Q. How long a time does it take you to do that?
A. If the orders are given one after the other, we can do it in about two or three seconds; in two seconds we can stop her, if she is going full speed.
Q. To stop the engine?
A. Not to have the way of the ship.
Q. And how long to have the engine reversed, from the time of the order to half speed?
A. Well, about a couple of seconds more.
Q. Did you get an order before this collision to half speed—before the order to slow?
A. Yes, sir.
Q. And how quick were these orders together, to half speed, slow, stop, and back?
A. Just about as quick as they could be given; almost one after the other.
Q. And then you executed them about as quick?
A. Executed them as soon as ever we heard them; I no sooner heard them than the thing was done.
Q. Was the engine reversed at the time you felt the shock?
A. Yes, sir.
Q. How many revolutions do you think it had made back, or can you tell?
214 A. I could not say how many revolutions it had made back.
Q. Were you in the engine-room from the time the Corsica left the wharf?
A. Yes, sir.
Q. You remained there, I suppose, until after the collision?
A. Until after the collision.
Q. After the collision did the Corsica keep straight on down the bay?
A. She was stopped for some time after that; I came up on deck and asked the captain if he was going on, and he said yes, he was going on the voyage, and I went below again.
Q. She stopped some time after that, and then went on her voyage?
A. Yes, sir.
Q. Didn't stay in port for any repairs?
A. No, sir.

Q. You don't know anything about any order to starboard on board the Corsica?
A. No, sir.

John Beam, a witness on behalf of resp'd'ts, being duly sworn, testified as follows:

Examined by Mr. Lord:

Q. What is your occupation?
A. Second engineer of the Corsica.
Q. Do you recollect this collision on the 9th of Sept'r?
A. I do.
215 Q. Where were you at the time?
A. I was in the engine-room.
Q. Who was with you?
A. The chief engineer, the second engineer, (that is myself,) and the third engineer; the whole ship's company of engineers, besides the firemen.
Q. What amount of steam had you?
A. About 18 lbs.
Q. Do you recollect the order to slow, stop, and back?
A. Yes, sir.
Q. Were those executed?
A. Immediately.
Q. How long were they given before the collision happened?
A. Well, half a minute; I could not exactly say; it was just shortly before the collision.
Q. Had the order to reverse been executed before the collision happened?
A. It was.
Q. How many times backwards do you suppose the vessel then had time to make before it happened?
A. Well, about four or five.
Q. Do you recollect an order to give her full speed after leaving the moorings?
A. She was going full speed.
Q. You don't recollect the order given to full speed?
A. I don't recollect the order given; I recollect that we sailed a short time at half speed, before the short order came down.
216 Q. You sailed a little time at half speed?
A. Yes, sir.
Q. And then you recollect putting on full speed?
A. Not after.
Q. Did you notice much of a shock from the collision?
A. No, sir.

John Cashman, a witness on behalf of resp'ts, being duly sworn, testified as follows:

Exam'd by Mr. Lord:

Q. What is your business?
A. Quartermaster of the Corsica.
Q. How long have you been in the Corsica?
A. I will be twelve months the 16th of this month.
Q. How long have you been in the service of the Cunard line?
A. About 12 years.
Q. Do you recollect the collision on the 9th of September?

A. I don't recollect much of it.
Q. You don't remember it?
A. No, sir; I was standing at the wheel-house door, I know.
Q. Was there any officer stationed there?
A. Yes, sir; one at the wheel-house door, and I was at the starboard side.
Q. Do you recollect his name?
A. Yes, sir.
Q. What was his name?
217 A. Lannigan.
Q. Is he with the boat now?
A. No, sir; he left her.
Q. When did he leave her?
A. The last trip.
Q. Do you remember at what time you left the moorings?
A. Yes, sir; we left about 45 minutes past 12.
Q. And when you left how did you do; move only into the stream?
A. Yes, sir; head on.
Q. And then you swung around to get down the stream?
A. Yes, sir.
Q. How far did it take you to make that swing?
A. I could not say; I was standing alone and I could not say.
Q. You did not see the collision?
A. Yes, sir; I seen when we ran into her.
Q. Did you see how the Corsica struck her?
A. As near as I can guess, I think she struck her head on; a kind of a glancing blow; just as if you were falling aft, after the wheel had been starboarded.
Q. The wheel was starboarded?
A. Yes, sir.
Q. Did you hear an order given to hard astarboard?
A. Yes, sir; and the wheel was hard astarboard; I saw the two men put the wheel over.
218 Q. They put it over as fast as they could?
A. Yes, sir.
Q. The order was obeyed instantly?
A. Yes, sir.
Q. Do you recollect how long that was before the collision?
A. About two minutes or so, as near as I could guess.
Q. How long does it take to put your wheel hard over?
A. It don't take very long; she answers her wheel very soon.
Q. Who gave you the order to hard astarboard?
A. I could not tell whether the pilot or captain sung out from the bridge.
Q. Was it much of a blow?
A. No, sir.
Q. It did not start you from your feet, did it?
A. No, sir.
Q. Did you see the America before the collision happened?
A. No, sir; I did not.

Cross-examined by Mr. Van Santvoord:

Q. Do you know whether the wheel was put astarboard twice, immediately before the collision?
A. Yes, sir; it was starboard and hard astarboard.
Q. First, starboard and then hard astarboard?

A. Then hard astarboard.

219 How long an interval between the starboard and the hard astarboard?

A. Not long; about a minute and a half or two minutes; I don't think it was that time—it was no time.

Q. Was the helm steadied between the starboard and the hard astarboard?

A. Yes, sir; I think it was.

Q. How long does it take to put the helm hard astarboard from midships?

A. About four or five seconds.

Q. Does the Corsica mind her helm pretty quick?

A. Yes, sir.

Q. Does she sheer quick?

A. Yes, sir.

Q. Which way does she sheer quickest, to port or to starboard?

A. I cannot tell; I never took notice.

Q. You don't know that [that] there is any difference?

A. No, sir.

Q. Have you a compass before you when you steer?

A. Yes, sir.

Q. How many points would she change her bow to port with the helm hard astarboard in going two lengths, and her speed say six miles an hour?

A. Two or three points, sir.

220 Q. And with the helm hard aport at a speed of six miles an hour, in going twice her length, she would go just as far to starboard, wouldn't she?

A. Yes, sir,

Q. You think there would not be any difference?

A. No, sir; I don't think there would be.

Q. What is the effect of backing on the Corsica, upon her steering by the helm. When the engine of the Corsica is reversed, will the Corsica mind her helm?

A. I never took notice of that; I cannot tell; I don't know, sir.

Joseph Henderson, a witness on behalf of resp'ts, being duly sworn, testified as follows:

Examined by Mr. Lord:

Q. What is your business?

A. New York and Sandy Hook pilot.

Q. Have you a license?

A. I have, sir.

Q. Who gave it to you?

A. The commissioners of pilots.

Q. (Handing book to witness.) Are those the bye-laws of the commissioners?

A. Yes, sir.

Q. What commissioners?

A. The State commissioners appointed by the chamber of commerce and board of underwriters; the New York State commissioners.

221 Q. Have you had any experience in steering these propellers?

A. I have.

Q. What propellers have you been in?

A. Most the whole of the European ships.

Q. How far would the Corsica go to vary her course half a point to port, if she was running six knots—how far would she go after the order hard a starboard was given, before she would change her course two points?

A. She would go two hundred yards.

Q. How far would she go at that rate of speed, in order to change her course one point, after the order to hard astarboard was given?

A. One hundred & fifty.

Q. Suppose she was going at a speed of three knots, how far would she go after the order hard a starboard was given before she would change her course two points to port?

A. There would not be much difference.

Q. If she was going at the rate of three knots an hour, and the order was given hard a starboard, she would go how many feet before she would vary her course half a point?

A. After the order was given, it would take some little time to get the wheel over; after the wheel was over, she would go 100 or 150 feet before she would vary her course a point.

Q. How long would it take to put the wheel over?

222 A. Perhaps a second and a half or two seconds; the wheel could be put over in two seconds if the vessel was going slow.

Q. If she was going at the rate of six knots, how long would it take to put it over?

A. Perhaps two seconds and a quarter to two and a half, especially when the quartermaster is on the look-out, for they calculate as soon as they get the order to fill it; probably it would not be done as quick out to sea, where a quick order is not expected.

Cross-examined by Mr. Van Santvoord:

Q. What is the date of these bye-laws?

A. The date is there in the forepart of the book; 1853, 1857, 1864, I think.

Q. Can you tell the date of the bye-laws by looking at the book?

A. Yes, sir; the date of the bye-laws is 1854; there have been amendments made in 1857 and 1865, but the bye-laws have never been altered.

By Mr. Lord:

Q. Look at the 25th bye-law, and say whether there has been any alteration made in that?

A. No, sir.

Q. I mean the 28th.

A. No, sir; that bye-law was issued by the commissioners in 1854.

Q. And it was in operation in September last?

A. Yes; and is in operation yet.

Q. It is in operation now?

A. Yes, sir.

223 Mr. Lord read in evidence the 28th bye-law.

By Mr. Van Santvoord:

Q. Where does this board of commissioners sit?

A. At their office 69 South street, and they meet every Tuesday.

Q. You were not present at the time of the enactment of these bye-laws there, were you?

A. I might have been in the office; I guess I was in the office; it was the time the pilotage of the port and the whole business——

Q. How do you know these bye-laws were adopted by the board of commissioners? Do you know it except by seeing it in the book?

A. I have been under the same board of commissioners for the last 20 years.

Q. You know it from sailing under them and having that book?

A. Yes, sir; I know it from sailing under them.

Q. How do you know that no changes have been made in the bye-laws?

A. There might be some little alterations, but none in that section.

Q. You don't know of any alteration in that section?

A. No, sir; I know every alteration that has been made by seeing the minutes of the last meeting; if there is anything new it is printed.

Q. You don't know until it is printed?

A. Yes, sir.

224 Q. And when it is printed you know it by getting it from the board of commissioners?

A. I get it from the secretary.

Q. Your source of information is the secretary of the board?

A. We do all our business in that office; they register all the business of pilotage in New York.

Q. Have you ever steered the Corsica?

A. No, sir; I never piloted the Corsica.

Q. Is there a difference in the quickness with which different propellers sheer? Do some sheer quicker and some not so quick?

A. Yes, sir; that is, the longer the ship is the more time she will occupy in sheering.

Claimants rest with the exception of a few witnesses they propose to call hereafter.

Israel S. Wolcott, recalled on behalf of libellants, and further examined by Mr. Van Santvoord:

Q. You stated yesterday, that when you went out on the guard after the second bell to back that you saw Jersey City?

A. Yes, sir; I saw the dock on the other side.

Q. What dock did you see?

A. I saw the dock—the form of the dock that we came to at.

225 Q. The coal-dock?

A. No, not the coal-dock. The coal-dock is below us. We lay on the upper side; we lay on that side above the coal-dock, on the lower side. I saw the dock where we came to at from the starboard gangway.

Q. The starboard gangway aft?

A. Yes, sir.

Q. You saw the dock which you came to at?

A. Yes, sir; that we came to at.

Q. Did you see anything below that?

A. No, sir; I didn't stay there long enough; I saw the Corsica in shore, and I left when I saw where she was coming; I left right away; I didn't stop there any length of time, only long enough to look.

Cross-examined by Mr. Lord:

Q. You were sitting on the chain-box, were you not?

A. Yes, sir.

Q. When you went to the guards to look, was it just after you left the chain-box?

A. Yes, sir; after I left the chain-box.

Q. That was after the order being given on board of the America?

A. I left the chain box when the bell rang to back the second time, then I went to see what was up; that called me.

Q. How far would the Corsica go to vary her course half a point to port, if she was running six knots—how far would she go after the order hard a starboard was given, before she would change her course two points?

A. She would go two hundred yards.

Q. How far would she go at that rate of speed, in order to change her course one point, after the order to hard astarboard was given?

A. One hundred & fifty.

Q. Suppose she was going at a speed of three knots, how far would she go after the order hard a starboard was given before she would change her course two points to port?

A. There would not be much difference.

Q. If she was going at the rate of three knots an hour, and the order was given hard a starboard, she would go how many feet before she would vary her course half a point?

A. After the order was given, it would take some little time to get the wheel over; after the wheel was over, she would go 100 or 150 feet before she would vary her course a point.

Q. How long would it take to put the wheel over?

222 A. Perhaps a second and a half or two seconds; the wheel could be put over in two seconds if the vessel was going slow.

Q. If she was going at the rate of six knots, how long would it take to put it over?

A. Perhaps two seconds and a quarter to two and a half, especially when the quartermaster is on the look-out, for they calculate as soon as they get the order to fill it; probably it would not be done as quick out to sea, where a quick order is not expected.

Cross-examined by Mr. Van Santvoord:

Q. What is the date of these bye-laws?

A. The date is there in the forepart of the book; 1853, 1857, 1864, I think.

Q. Can you tell the date of the bye-laws by looking at the book?

A. Yes, sir; the date of the bye-laws is 1854; there have been amendments made in 1857 and 1865, but the bye-laws have never been altered.

By Mr. Lord:

Q. Look at the 25th bye-law, and say whether there has been any alteration made in that?

A. No, sir.

Q. I mean the 28th.

A. No, sir; that bye-law was issued by the commissioners in 1854.

Q. And it was in operation in September last?

A. Yes; and is in operation yet.

Q. It is in operation now?

A. Yes, sir.

223 Mr. Lord read in evidence the 28th bye-law.

By Mr. Van Santvoord:

Q. Where does this board of commissioners sit?

A. At their office 69 South street, and they meet every Tuesday.

Q. You were not present at the time of the enactment of these bye-laws there, were you?

A. I might have been in the office; I guess I was in the office; it was the time the pilotage of the port and the whole business——

Q. How do you know these bye-laws were adopted by the board of commissioners? Do you know it except by seeing it in the book?

A. I have been under the same board of commissioners for the last 20 years.

Q. You know it from sailing under them and having that book?

A. Yes, sir; I know it from sailing under them.

Q. How do you know that no changes have been made in the bye-laws?

A. There might be some little alterations, but none in that section.

Q. You don't know of any alteration in that section?

A. No, sir; I know every alteration that has been made by seeing the minutes of the last meeting; if there is anything new it is printed.

Q. You don't know until it is printed?

A. Yes, sir.

224 Q. And when it is printed you know it by getting it from the board of commissioners?

A. I get it from the secretary.

Q. Your source of information is the secretary of the board?

A. We do all our business in that office; they register all the business of pilotage in New York.

Q. Have you ever steered the Corsica?

A. No, sir; I never piloted the Corsica.

Q. Is there a difference in the quickness with which different propellers sheer? Do some sheer quicker and some not so quick?

A. Yes, sir; that is, the longer the ship is the more time she will occupy in sheering.

Claimants rest with the exception of a few witnesses they propose to call hereafter.

Israel S. Wolcott, recalled on behalf of libellants, and further examined by Mr. Van Santvoord:

Q. You stated yesterday, that when you went out on the guard after the second bell to back that you saw Jersey City?

A. Yes, sir; I saw the dock on the other side.

Q. What dock did you see?

A. I saw the dock—the form of the dock that we came to at.

225 Q. The coal-dock?

A. No, not the coal-dock. The coal-dock is below us. We lay on the upper side; we lay on that side above the coal-dock, on the lower side. I saw the dock where we came to at from the starboard gangway.

Q. The starboard gangway aft?

A. Yes, sir.

Q. You saw the dock which you came to at?

A. Yes, sir; that we came to at.

Q. Did you see anything below that?

A. No, sir; I didn't stay there long enough; I saw the Corsica in shore, and I left when I saw where she was coming; I left right away; I didn't stop there any length of time, only long enough to look.

Cross-examined by Mr. Lord:

Q. You were sitting on the chain-box, were you not?

A. Yes, sir.

Q. When you went to the guards to look, was it just after you left the chain-box?

A. Yes, sir; after I left the chain-box.

Q. That was after the order being given on board of the America?

A. I left the chain box when the bell rang to back the second time, then I went to see what was up; that called me.

Q. You went immediately to the gangway, and immediately you went back again?

A. I went aft. I did not go back to the engine-room.

226 Libellant rests with the exception of reserving the privilege to rebut any testimony that respondents may produce.

Adjourned.

227 U. S. district court. Before Hon. Judge Benedict. Brooklyn, July 16th, 1866.

SCHUYLER
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229 U. S. district court.

SAMUEL SCHUYLER
ag'st
THE STEAM-PROPELLER CORSICA, her engine, tackle, apparel, &c.

It is hereby consented that Josiah Johnson be examined de bene esse in this cause, as a witness on the part of the claimants, at the office of D. D. Lord, esq., No. 45 Exchange Place, on Thursday, the 10th day of May, 1866, at 12 o'clock, noon, of that day; that the deposition of said witness, when sworn to before a commissioner of deeds or a notary public, may be read in evidence by either party on the trial, reference, and other proceedings in this cause with the like effect, subject to all exceptions to the competency and admissibility of the testimony, as if the same had been taken before a commissioner of the court under a notice issued for that purpose; that the same need not be filed unless required by ten day notice in writing, but may remain in the possession of the claimant's proctor; the claimant's proctor to furnish a copy to the libellant's proctor.

Dated New York, 9th May, 1866.

C. VAN SANTVOORD,
Proctor for Libellant

230 U. S. district court.

SAMUEL SCHUYLER
vs.
THE STEAM-PROPELLER CORSICA.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Josiah Johnson, junior, a witness examined de bene esse by consent, being duly sworn, saith:

I am a Sandy Hook pilot, and have been such since 1851. I have been licensed by the pilot commissioners of the State of New York, and have

held a license since 1851. I belong to the pilot-boat James M. Waterbury, and have been on her five or six years. I remember a collision between the steamer Corsica and the steamboat America, on the 9th of September, 1865. I brought the Corsica in from sea on the trip previous to that in which the collision happened, and I took her out to sea on the trip when said collision occurred; this is customary with the pilots to carry a ship out after bringing her in. The same pilot or one of his company does this. I was not on board of the Corsica from the time when I left her after bringing her in until the day she
231 sailed. I think the captain told me when I left the ship, the day when he expected to sail, and on that day I came on board to take her to sea. She loosed from the wharf at Jersey City a little after twelve o'clock. It took us probably five or six minutes to get straightened down the river; I could not say exactly; after getting straightened down the river, probably some 300 yards from the Jersey shore, I saw the steamboat America, after getting straightened down, but I cannot say how long after. When I first saw her she was on our port bow, I should say from three to four points. She was then in the neighborhood of the middle of the river, coming out from amongst some vessels. On seeing her, I gave orders, and put our wheel to starboard; this was as soon as I saw the America; this order was obeyed. Our course changed probably two points; I then noticed a change in the course of the America. She put her helm to port; this threw her head towards us. I could not say how much she changed her course, possibly a couple of points or so. When I noticed this change I gave orders to stop the ship. I gave this order to the captain, and he gave
232 orders to stop her. Those orders were obeyed. I inquired of the captain if the ship was backing, and he told me she was. At the time when this order was given the America was very near ahead of us, and we were very close together. We might have been twice the ship's length off. I do not recollect as to any subsequent order hard astarboard. I did not notice any change in the ship's direction from this time till the collision. I may have given an order to steady after the first order to starboard; I spoke to the captain about it, after seeing that the America had altered her wheel to port, but I can't recollect whether I gave the order or not. I would rather not make any statement about it, because I am not positive. At the time when we came together, I think the America had headway, but I think her engines were not working. I recollect seeing a man in the pilot-house of the America; he left about the time of the collision, perhaps a little before.

If, when we saw the America, we had ported our helm, and the America had kept her course, she would have run us into the Jersey shore.

If, when she ported her helm, if we had kept on starboard, we
233 would have come together. We could not have done anything else than we did that I am aware of to avoid the collision. If, when we starboarded, the America had kept her course, without deviation and without stopping, the collision would not have happened.

Being cross-examined:

When I left the Corsica, after bringing her in, I left her at the wharf at Jersey City; she was made fast to the wharf at Jersey City when I left her; she was at the wharf at Jersey City when I went aboard of her to take her out; she was made fast to the wharf at Jersey City. I was on the bridge of the Corsica when I first saw the America; I was on the starboard side of the bridge. He was on the port side of the bridge,

the captain; I think the captain spoke to me about the America before I see her. The captain called my attention to her. I think I had not seen her before the captain called my attention to her; she was coming out from some vessels at anchor in the river; there were some men-of-war vessels and some merchant-vessels. I could not say from what vessels she came out. The order to put the Corsica's helm astarboard
234 on seeing the America, was given by me to the officer aft by the wheel; I gave the order: I said aport, but motioned with my hand astarboard; I meant astarboard, but I said aport, and motioned to the officer at the wheel astarboard. The captain asked me if I did not mean astarboard, and I told him yes. I do not know whether the captain repeated the order or not. I signalled with my left hand to the officer aft to put the helm astarboard. I have no recollection of any second order to put the Corsica's helm astarboard before the collision. I am pretty well convinced that the captain repeated the order, and put the helm astarboard, the one I had given, the first order, the one I had given by saying aport, but waiving my hand astarboard.

JOSIAH JOHNSON, JR.

Sworn to before me this 10th May, 1866.

[L. S.] EDWIN F. COREY, JR.,
Notary Public, City of New York.

(Endorsed:) U. S. district court. Samuel Schuyler ag'st the steam-propeller Corsica. Deposition of Josiah Johnson, jr.

235 U. S. district court.

SAMUEL SCHUYLER
against
THE STEAM-PROPELLER CORSICA, her engine, tackle, apparel, &c.

It is hereby consented that John J. Woodfine be examined de bene esse in this cause, as a witness on the part of the claimants, at the office of D. D. Lord, No. 45 Exchange Place, in the city of New York, on Saturday, the 23d day of June, 1866, at 12 o'clock m. of that day; that the deposition of said witness, when sworn to before a commissioner of deeds or a notary public, may be read in evidence by either party on the trial, reference, or other proceedings in this cause, with the like effect, subject to all exceptions to the competency and admissibility of the testimony, as if the same had been taken before a commissioner of the court under a notice issued for that purpose; that the same need not be filed, unless required by ten days' notice in writing, but may remain in the possession of the claimant's proctor, the claimant's proctor to furnish a copy to the libellant's proctor.

Dated New York, 23d June, 1866.

C. VAN SANTVOORD,
Proctor for Libellant.

236 U. S. district court.

SAMUEL SCHUYLER
ag'st
THE STEAMER CORSICA, HER TACKLE, &c.

John J. Woodfine, a witness examined de bene esse on part of the respondents by consent, being duly sworn, saith:

I recollect the collision between the America and the Corsica; it occurred in September, 1865. I was at the time on board the steam-tug Henry Brinker, afterwards called the Relief. I had charge of her as captain to take her out. She was lying at the time at Essex street dock, Jersey City; this wharf is between the New Jersey Central wharf and the Cunard dock. I first noticed the Corsica when she was leaving her wharf to go out. When I first noticed the America she was about halfway across the river; she came around the stern of a bark; the river was very full of vessels and also the flats. When I first saw the America she was headed across the river for the Jersey Central dock; to the
south of it, if anything; she was heading from west-northwest to
237 northwest. She was heading so that from where I was standing
I could see her name on the starboard side of her paddle-box. The America changed her course before the collision. I should think she changed her course from three to four points to the northward before she struck. When she made this change she was very little distance from the Corsica; the collision occurred a very short time afterwards; say a minute and a half or two minutes afterwards. From the best estimate I can make, the vessels were at this time two or three times the Corsica's length apart from each other, but from where I was standing it was difficult to estimate the distance. I could see that the Corsica changed her course very little, not over a point; might have been a little more or a little less, but not over a point and a half. This change in the Corsica was not perceptible as quick as that of the America, because she was more at right angles to me. The rate of the Corsica from the
time when she started until she began to change her course was
238 not over four or five knots. The rate of the America was very
fast, but I cannot say how fast; she was a very fast boat, but I cannot tell whether she was running at full speed or not. If the America stopped at all before the collision, it could not be more than a second before; the working-beam was moving until just before the collision. I did not notice any dead-water ahead of her bows, and I looked to see if she was backing. I could not tell whether the Corsica stopped or not before the collision; the propeller is under water, and does not show. I could not tell from her motions; if she was going at all, she was going very slow. Before the America changed her course she was heading oblique from me, her head pointing to the southward of where I was standing, and after she changed she was within a point of being head on to me. The dock where I was is where these steamers usually come for coal. I noticed vessels in the river; the river was full of vessels. Nothing but schooners and coasters were lying in the Jersey flats; there were some there [some there] then. They were lying both sides of the
channel by which the Corsica would have to go to sea; there were
239 small vessels on the flats and large vessels on the other side of
the channel, in the stream; also some men-of-war over by the Battery. The Corsica was running between 200 and 300 yards, perhaps less, from the wharves at Jersey City. She could not have changed her course to the westward but very little without running into shoal water, and amongst the small vessels anchored there; I have been sailing in and out of the port of New York since 1832. I have had command of steamers since 1861, & I have been first officer of steamers ever since the commencement of the Calafornia excitement.

Being cross-examined:

I was on deck from the time I saw the Corsica go out until the time of the collision.

On what deck?

On the deck of the steamer Relief.

On the same deck all the time?

I was first on the main deck, the forecastle forward; the Relief was the third vessel from the wharf—the lower side of the wharf we were fast to; we were fast to the vessels which were fast to the wharf where the mill is—to the wharf next above the wharf where Schuyler's
240 boats coal; the first below Mr. Cunard's fence, or what I suppose Mr. Cunard's fence.

The bow of my steamboat was not as far out as the end of the wharf by about a length of my boat; I suppose she was between 80 and 90 feet long. When I left the forecastle deck I went on the upper deck near the pilot-house, and I staid there till the collision, and until the Corsica backed out of her; I was looking on all the while; I was watching the Corsica go down the river; that was what I went there on the upper deck for; I was looking at the Corsica, to see people on board who were going out in her; passengers I was acquainted with, who had been blockade-runners' engineers; I had not been a blockade-runner myself; I had earned to much good bread here. There were other persons on my steamboat, boiler-makers and engineers, repairing her and fitting her out; I was the only person on board on pay, on monthly pay, attached to the boat.

I took the boat out to Nassau on the 17th day of September, 1865, and sailed her there four months, and remained there untill I returned in January last; since that I have been at St. Thomas, W. I., as
241 sailing-master of the steamer Agnes. I came back to New York in April, and have been sick in Jersey City since; I live in Montgomery street, Jersey City; I was in the employ of John S. Howell, who owned the boat. He engaged me to go to Washington to bring the boat on and fit her up and take her to Nassau.

And she was fitted out for a steam wrecker to go to the Bahamas at the time of the collision; I did not know J. Hignes; there was not such a man on the boat that I know of at that time; I know there was no such man attached to the boat at that time, nor none working in my department.

The pier next below me was the Morris street pier; not the Morris street, but the Essex street; Morris street is south of Essex; I think so, but I cannot swear to it; I suppose Morris street is south of Essex street, because the canal is there, but I don't think I ever noticed the names; I know where Grand street is in Jersey City, but I never noticed where it comes down to the river.

Do you know where Montgomery street is?

Yes; that comes down to Hudson street at Exchange Place, where the ferry is.

242 How many streets below Montgomery was the street at the foot of which the pier below you was?

A. The third street below Montgomery.

J. J. WOODFINE.

Sworn to before me this 23d June, 1866.

[L. S.] GEORGE DE FOREST LORD,
Notary Public, City of New York.

(Endorsed:) U. S. district court. Samuel Schuyler vs. the steam-propeller Corsica, her engines, &c. Copy deposition of John J. Woodfine, June 23d, 1865.

243 U. S. district court. Before Hon. Judge Benedict. Brooklyn, July 16th, 1866.

SCHUYLER
vs.
THE CORSICA.

Mr. Lord read in evidence the direct examination of Josiah Johnson, jr., taken May 10th, 1866; Mr. Van Santvoord read the cross-examination; Mr. Lord also read the direct examination of John J. Woodfine, taken on the 23d of June, 1866; Mr. Van Santvoord read the cross.

James Haynes, a witness on behalf of libellant, being duly sworn, testified as follows:

Examined by Mr. Van Santvoord:

Mr. Lord objected to the examination of this witness on the ground that the libellant had already proved by the examination of John J. Woodfine, that no other person than himself was on board of the Relief, and he (Mr. Lord) objected to all evidence contradicting that.

Q. Where do you reside?

A. 192 Third avenue.

Q. Did you reside there in Sept., 1865?

A. No, sir; I lived in 423 Ninth avenue, in Sept., 1865; I moved to 3rd avenue afterwards.

244 Q. In Sept'r, 1865, were you agent of the Nassau Dry Dock Co.?

A. Yes, sir.

Q. And you are still agent of that Co.?

A. Yes, sir.

Q. Was that company the owner of the steamboat Henry Brinker, afterwards called the Relief, in Sept'r, 1865?

A. Yes, sir.

Q. Did you know of the collision between the steamboat America and Corsica, in Sept'r, 1865?

A. Yes, sir.

Q. Do you recollect the date of it?

A. It was on Saturday, somewhere about the 9th of Sept'r; I would not be positive, but somewhere about that date; I shipped goods by her, (the Corsica,) and the bill of lading was signed the day before she left.

Q. It was on Saturday, in Sept., about the 9th?

A. Yes, sir.

Q. Did you state how you fixed the date?

A. Judging from the bills of lading, they were signed on the 8th, in Mr. Cunard's office; they are generally signed the day before the vessel leaves.

Q. Were you on board of the Relief on that day?

A. Yes, sir.

Q. Where was the Relief lying?

A. She was lying at the foot of Sussex st.

2 Q. On which side of the pier at the foot of Sussex st.?

A. I would call it the lower side, between Sussex and Morris.

Q. Was she lying next to the dock?

A. No, sir; the third vessel off; there was a wrecking schooner and a steamer between her and the dock. There was a brig or two lying at the bulkhead. The vessel was delayed somewhere up at Hell Gate.

Q. She was the third steamboat out?
A. Yes, sir; she was the third out, lying broadside.
Q. How near the bulkhead of the slip?
A. Well, I could not say; probably 50 feet.
Q. From the bulkhead of the slip?
A. From the bulkhead; it might not be quite as much. I didn't take any particular notice; somewhere thereabouts.
Q. What was she there for?
A. She was undergoing repairs.
Q. For what purpose?
A. Fitting out as a wrecking steamer to go to Nassau.
Q. Had you any charge of the repairs there as agent of this company?
A. My instructions were to see that there were no bills purchased without my authority. I had my authority from Mr. Howell; I
246 paid the men every Saturday night—such men as were paid off by the vessel; some of the work was done by contract, which was paid in bulk afterwards.
Q. Who was Mr. Howell?
A. He was one of the owners, John S. Howell?
Q. Was he a member of this Nassau Dry Dock Co?
A. Yes, sir.
Q. What was this Relief?
A. She was a tow-boat here in the river one time, as I understood; and then she was bought by the government. She was a steamer, and was sold in Washington, and Mr. Howell bought her there.
Q. Mr. Howell had bought her before this?
A. Yes, sir; and he sent Captain Woodfine to Washington after her.
Q. Had this steamboat a house on deck?
A. Yes, sir.
Q. Describe that.
A. She was built all aft, say from forward of her boiler; you may say two-thirds of the boat was covered over, which took in the engines and boiler; and there were two little cabins aft, and state-rooms on the other side; and the pilot-house stood in front of what is called the hurricane-deck, or poop-deck.
247 Q. Had this house on deck windows in the sides?
A. No, sir; there were two dead-lights to aft, I think; and I think they were the only lights I recollect of. I would not be positive. To the best of my recollection, there were only two dead-lights aft, and she was lighted from the sky-light.
Q. No windows on the sides?
A. No windows on the side, to the best of my recollection.
Q. Was the whole boat aft, about 35 feet, enclosed by this house? Did the house go clear out to the sides?
A. Yes, sir; out to the sides.
Q. It enclosed the engine?
A. The engine and boiler. The boiler was a little over the deck, very little; enclosed all in. Smoke-pipe and everything went up through the house. The house probably covered two-thirds of the vessel.
Q. Which end was out into the river?
A. She was lying head out to the stream.
Q. Head towards the end of the pier?
A. Yes, sir.
Q. Who was captain of the boat?
A. Captain Woodfine.
Q. John J. Woodfine?

A. Yes, sir.
Q. You were acquainted with him?
A. I had known Captain Woodfine for a year previous to his taking charge of the steamer.
248 Q. And he know you?
A. Yes, sir.
Q. Did you see the Corsica on that day?
A. Yes, sir.
Q. Were you at the landing of the Corsica at the time she started?
A. I was there at the time she moved out.
Q. You were on her deck?
A. I was on her deck.
Q. At the time she moved out?
A. They were getting the chains in about the time I left; getting the gang-plank in, and the bulwarks secured.
Q. Where is the dock at which the Corsica lay?
A. At the foot of York street, I think they call it.
Q. Was that the first dock below the ferry dock?
A. Yes, sir.
Q. The first dock south, at the foot of York street?
A. Yes, sir.
Q. Where are the Cunard docks proper?
A. I would call the main entrance on Grand street.
Q. Below the Corsica's dock?
A. Yes, sir; the main entrance where they generally do their business.
Q. And the dock below that is the dock at which the Relief lay?
A. The next below.
Q. And below that is what street?
A. Sussex, and then Morris. We lay in the bulkhead between Morris street dock and Essex street dock.
249 (By Mr. Lord.) You did?
A. Sometimes we lay one side; this time we were lying at Sussex street dock.
Q. On this day?
A. On this day we laid the lower side of what we call the Sussex street dock.
Q. Was Mr. Howell with you when you were at the dock of the Corsica?
A. Yes, sir.
Q. To see her start?
A. Yes, sir.
Q. After her lines were thrown off, where did you go to?
A. Came around to the steamer Relief.
Q. On what part of the boat did you go on the Relief?
A. Went forward of her house, just to her gangway, and passed over this wrecking schooner and steamer, and passed forward to the house.
Q. Did Howell come on board with you?
A. Yes, sir; he was on board before me; directly before me.
Q. Was Woodfine there?
A. Yes, sir; I seen him on that deck when I went on board.
Q. Where did he go to?
A. Himself and Mr. Howell, and Mr. Finlayson, I think, and another gentleman, whose name I can't remember—yes, Mr. Marshall—went in to look at the vessel. They past into the cabin, and went to look at the engine.

250 Q. What door did they enter?

A. I might call it the outer door, as the vessel lay.

Q. The starboard door?

A. I don't know what you call it; the right-hand door as you look towards the bow of the vessel.

By Mr. Lord:

Q. Those doors open in front towards the bow?

A. Yes, sir.

By Mr. Van Santvoord:

Q. Woodfine passed with Howell and Marshall and Finlayson into this house?

A. Yes, sir; to look at the engine and the cabin.

Q. That is the house that you have described as on deck?

A. Yes, sir.

Q. Do you know how long he remained there, and when he came out?

A. He could not have remained therea great length of time; not over two or three minutes, probably. He could not have remained over four minutes.

Q. What brought him out?

A. I chanced to notice this collision taking place in the river, and I went to the cabin door.

Q. You noticed the collision? What did you see? When they went in you stayed out?

251 A. Yes, sir; I noticed that the Corsica was afoul of the steamer.

Q. Where were they afoul?

A. The Corsica's bows appeared to me to be in the wheel-house of the steamer—in the paddle box.

Q. In what part of the river?

A. You know where the bay is formed between the Central railroad depot and the coal dock, about two-thirds in front of that bay; a little more down towards the Central depot than the coal-wharf.

Q. How far out in the river?

A. I should judge about three or four hundred yards

Q. When you first saw them on that occasion they were foul?

A. Yes, sir.

Q. Then what did you do?

A. I went aft to the cabin and called Mr. Howell out, to come out and look at the collision.

Q. At that time was the Corsica backing off?

A. By the time I turned round; I turned and went back towards the bow of the vessel, and by that time the Corsica was backing off.

Q. Did Mr. Howell come out?

A. Yes, sir; first.

Q. Who next.

A. I think Captain Woodfine?

252 Q. What did Woodfine then do?

A. He made some remarks about it being a bad job, or something of that kind; and he said he would go and get his glass and take a look at her.

Q. Did he do so?

A. Yes, sir; he passed the glass to Mr. Howell first, and then around to us all.

Q. That was after they had been afoul?

A. Yes, sir.

Q. Before that, was Woodfine in any position where he could have seen either boat?

A. As I came on board from the steamer, I could see right down, and I saw Woodfine, and to the best of my knowledge and belief he was painting the inside of the bulwarks; he was standing on the deck.

Q. He left the painting?

A. Yes, sir; and went with Mr. Howell and these parties into the cabin.

Q. In that cabin was there any position where he could see anything that was going on in the river?

A. To the best of my recollection there were no dead-lights in that cabin, only two aft; because I know that the cabin was lit by a sky-light.

Q. Do you know how the weather was that day?

A. Fine; a fine day.

253 Q. Any wind?

A. Comparatively none; it was a calm day.

Q. Did you notice whether there were any vessels in the river?

A. The river was rather clear of vessels; if anything, clearer than usual about there.

Q. Were there any vessels down in the direction of where the Corsica and the steamer were afoul?

A. Not to my knowledge; I could not see that there was anything in the way there; it appeared to me to be rather clear. I didn't scrutinize the matter much; I have no particular recollection.

Q. How the vessels came together you don't know, because you did not see them until they were afoul?

A. No, sir.

Q. And that was before you called the attention of Mr. Howell and Woodfine to it?

A. Yes, sir.

Cross-examined by Mr. Lord:

Q. Do you know a man by the name of John Hynes?

A. No, sir.

Q. How long since you have seen the Relief?

A. I did not see her since she left here somewhere towards the latter end of Sept., 1865; since she left here to go to Nassau, in Sept., 1865.

Q. Where is Finlayson now?

A. He is dead.

254 Q. Where is Mr. Howell?

A. He is here in court.

Q. Where is Mr. Marshall?

A. Mr. Marshall, I understand, lives in Nassau.

Q. You did not notice those boats until you saw them together?

A. No, sir.

Q. What did you do when you got on to the Relief?

A. I may have been speaking to the mate or some of the men connected with the vessel; I was only a moment or so on board when this occurred. I went on board the Relief, and I don't know who I was in conversation with; I may have been speaking to one of the officers, for all I know; the engineer was on board and the mate. I don't know what caused my attention to be directed to looking down the bay; but I looked down, and that moment I saw the collision.

Q. I ask what you did yourself?

A. I did nothing more than to be in conversation with the parties on board the vessel; I cannot recollect who it was with.

Q. Where did you meet Mr. Finlayson?
A. I think we met him at the Cunard dock.
Q. What did you go to the Cunard dock for?
A. To see the Corsica off.
Q. She did not get off before you left?
A. She was in the act of leaving the dock at the time that I left; they were taking in the line.
255 Q. You did not see her go out?
A. She was moving slowly; just moving out.
Q. You say that you lay sometimes between Morris and Essex sts., and sometimes at Sussex street; what made you change your places?
A. The bulkhead is formed between the two docks; there is an iron mill there, and we lay there most of the time, until they wanted to use that bulkhead; they had some things to ship or unship there; or, at any any rate, the captain told me that they wanted us to move to the other side of the dock.
Q. How long had you been lying at the foot of Sussex street at that time?
A. Probably in the neighborhood of a week or more.
Q. How long before that had you been lying at the foot of Essex street?
A. Up to the time of this collision we may have been lying there a week or ten days, probably more; at the foot of Sussex street. We had never been at Essex street at all.
Q. In your direct examination you say, "We lay between Morris & Essex streets."
A. I meant Morris & Sussex sts.
Q. Sussex street is the street above Essex?
A. Morris street is above Sussex.
Q. Where is Essex street? Is it above or below Sussex st.?
A. It is above that, I believe.
Q. Sussex street is next to Essex, is it not?
A. Sussex st. is the next after Grand st.; then Morris st.; then Essex st.
256 Q. You are positive that you were lying at this time at the foot of Essex st.?
A. Yes, sir.
Q. And yet you say that sometimes you lay between Morris & Essex st.?
A. I meant Sussex st.; I confounded the two streets from the similarity of the names; we went in between the two bulkheads.
Q. You say you are not very well acquainted with the streets of Jersey City; do you go over there frequently?
A. I have been there frequently; but I never took much notice; any more than to know that I had to go so many blocks and then turn down.
Q. You did not notice what street it was?
A. I had no occasion particularly to notice it, going there so often; but I have gone Sussex st. in place of Morris st.
Q. Did you know that time whether it was Morris street, or Sussex st., or Essex st.?
A. Yes; I had got pretty well acquainted with them by that time.
Q. What did Finlayson and Marshall go into the cabin to look about?
A. Finlayson was one of the stockholders in the stock company, and took an interest in the vessel; and Mr. Marshall was a friend of his that came from Nassau, and the vessel being going to Nassau, they called in to see the vessel, I suppose.

257 Q. They did not go into the engine-room, but only into the cabin?

A. Oh, yes; they had to pass through the engine-room to go into the cabin. There are two cabins.

Q. When you went to call those gentlemen to see the collision, where did you find them?

A. They were standing at the cabin door, aft the engine.

Re-direct ex'n:

Q. Were there berths on each side of this house on deck?

A. Yes, sir; on each side, particularly on the side that they went in on as they entered into the cabin.

Q. On the starboard side?

A. Yes, sir. On the other side there was a galley, water-closets, and store-rooms, &c.—13 berths.

Re-cross-ex'd:

Q. You are still in the employ of the Nassau Dry Dock Company?

A. Yes, sir.

John S. Howell, a witness for libellant, being duly sworn, testified:

Direct ex'n by Mr. Van Santvoord:

Q. Where do you reside?

A. In New York at present; 121 Barrow street.

Q. Were you a shareholder in the Nassau Dry Dock Company?

A. Yes, sir; a manager of it.

Q. To whom did this boat, the Relief, belong?

A. I bought her for the Dry Dock Co.

Q. When?

A. I think it was in the month of August, 1865; I am not certain.

258 Q. Do you know of her being at Jersey City in September?

A. Yes, sir.

Q. What was she there for?

A. To repair her boiler and put her machinery in order; general repairs of the vessel.

Q. Were you on board of her on the day of the collision between the America and the Corsica?

A. I was.

Q. Where did she lie?

A. At the pier at the foot of Sussex st., Jersey City.

Q. How far out from the pier?

A. The third vessel out.

Q. Which bow out?

A. There is only one bow to her.

Q. Was the bow towards the city, or out?

A. It was out towards the end of the pier. The larboard side was towards the dock.

Q. Had she a house on deck?

A. Yes, sir; two-thirds of her was housed in.

Q. And did that house include the engine?

A. Yes, sir.

Q. The engine and boilers?

A. Yes, sir; to the outside of the guards she was all covered in.

Q. Where was the pilot-house?

A. It adjoined the forward part of this deck-house.

Q. How is that house lighted?
A. From sky-lights—two of them.
Q. Any windows in the sides?
A. There were windows in the sides, but they come into the state-rooms.
259 Q. Where was the dock of the Corsica?
A. The next street to the ferry; York st., I think, is the name.
Q. Were you on the dock of the Corsica at the time that her lines were thrown off?
A. I was.
Q. With whom?
A. With Mr. Hynes, my agent; Mr. Finlayson, Mr. Marshall, Captain Beaumont and two of his friends; there were seven or eight of us together.
Q. After the lines were thrown off, where did you go to?
A. We all went together, and went to look at the steamer Relief. It was called the Henry Brinker at that time; the name had not yet been changed. She was at that time at Sussex street wharf.
Q. That is below the Corsica's wharf?
A. Yes, sir; south of the Corsica wharf.
Q. Did you go direct to the Relief?
A. Yes, sir.
Q. Had the Corsica gone out into the stream when you left the dock?
A. No, sir; she was casting the lines.
Q. Did you know Captain John J. Woodfine?
A. I employed him.
Q. For what?
A. To take this steamer from Washington to New York, and New York to Nassau.
Q. When you went on board the Relief, did you find him?
A. Yes, sir.
260 Q. Where?
A. On the forward deck.
Q. Where did you go?
A. I went immediately into the engine-room, under the house, with him. He followed me. I was there but a very short time, when Mr. Hynes called me to come out quick, with Howell, and see the collision. I immediately went out, and Captain Woodfine followed me, and we saw the Corsica go into the wheel-house of this tug-boat; they were afoul.
Q. Did you see whether Woodfine came out?
A. He followed me out. I went out first, and he followed me from the engine-room; the engine-room and the cabin or mess-room are right close to each other.
Q. How near to the aft part of the boat was that?
A. About 18 feet from the stern of the boat.
Q. What happened then?
A. We went out and saw the vessels together, and the captain got his opera-glass so as to get a good look at them, and see what damage had been done, and then we saw that the Corsica's bow was right into the wheel-house of the boat. She carried away the spokes of the wheel, and the bowsprit of the Corsica was damaged.
Q. Where were they when they ran afoul?
A. About opposite the Central railroad ferry, four or five hundred yards out in the stream.
261 Q. How far below the Cunard dock was that?

A. About the same distance as the Central railroad ferry is. It was opposite to that ferry, I should judge, where the collision was.

Q. Do you know whether the Corsica had got out into the stream when you went on board the Relief?

A. I did not see her until I was called out to look at the collision.

Q. You have no doubt of the fact that Captain Woodfine went into the house there with you?

A. Not the least doubt, sir; not the least.

Q. In there, could he see these boats come together?

A. No, sir; it was perfectly impossible.

Q. What was the weather on that day?

A. It was a pleasant day, to the best of my recollection.

Q. Was there any wind?

A. Not much wind; it seemed to be pretty small on the water.

Q. How as to the number of vessels there?

A. I thought there were fewer vessels there than usual. There are generally a good many vessels there. I thought there were fewer vessels anchored there than usual.

Q. When you got out, the vessels were afoul?

A. Stuck together, sir.

Q. How they came together, of course, you don't know?

262 A. I don't know anything about it; but I saw them backing out—saw the Corsica backing out.

Q. They were still together when you came out?

A. Yes, sir; when I went out of the cabin, still together. When Captain Woodfine came back with his glass, as he came back, the Corsica had backed out four or five hundred yards.

Cross-examined by Mr. Lord:

Q. Repeat over again the names of the gentlemen who were with you on that occasion.

A. Mr. Hynes, Mr. Finlayson, Mr. Marshall, Captain Beaumont, who had two friends—I don't recollect their names. I think there were as many as nine altogether.

Q. Did you all meet at the Corsica?

A. Yes, sir; at the Corsica.

Q. You met accidentally?

A. Yes, sir; except myself and——

Q. What took you to the Corsica?

A. I go there every time she goes to sea.

Q. What to do?

A. Either to send off newspapers, or see an acquaintance off, or to send word to Nassau—any word that I wanted carried there by some of the officers of the boat.

Q. You had at that time considerable business correspondence with Nassau?

A. Yes, sir; and have still.

263 Q. For how long previously had you been connected in business with persons in Nassau?

A. As much as seven years ago—a pretty large business connection.

Q. All those gentlemen went down with you from the Corsica to the Relief?

A. I invited them down to see the Relief.

Q. And the Relief was lying about how far from the Corsica?

A. She was lying the third wharf south, about five or six hundred feet.

Q. And when you first came on board of the Relief, did you notice Captain Woodfine?

A. He was on the forward deck.

Q. To whom were you speaking when you went to on the Relief?

A. I spoke to him the first one.

Q. Did you have any conversation with the other gentlemen?

A. No; I asked him in to look at the machinery of the boat.

Q. From the deck you went first into the engine-room?

A. Yes sir.

Q. How much open space is there in the engine-room?

A. The passage-way is about three feet wide, or three feet six.

Q. How long is it?

A. About 25 or 30 feet long from the entrance to the back cabin to the engine-room.

264 Q. On the starboard side of the passage-way there were state-rooms?

A. Yes, sir; for the officers.

Q. The other side was occupied by the galley and the water-closets?

A. Yes, sir; and also by the boiler and the engine.

Q. Was there a passage on the port side of the boat?

A. Yes, sir; corresponding with the one on the starboard side.

Q. And that was about three feet wide by 25 long?

A. Yes, sir.

Q. On one side of that was the engine and boiler, and on the other side the water-closets, the galley, &c.?

A. Yes, sir; and a pantry.

Q. But the passage that you were in was the passage on the starboard side of the boat?

A. Yes, sir.

Q. What did you show those gentlemen after you got into that passage?

A. I was showing them the engine; they had not all got in; there was only myself and Woodfine in.

Q. The others had not got in before you were called out?

A. No, sir; they had not.

Q. Was it the intention of them all to go in?

A. Yes, sir; because I invited them to go in and look at the boat.

265 Q. Well, you went in in regular succession, and before you had all got in you were called out?

A. Yes, sir; I stopped to show them the engine; I had called upon the engineer; his name was Temple.

Q. How long after that was the Relief ready to go to sea?

A. I think she went to sea in the latter part of October; I am not sure which—a short time afterwards.

Q. Who was making her repairs?

A. Mr. Camp, who was the machinist; I forget the names of the boiler-makers; they were on Murray street.

Q. What repairs were going on?

A. To have the engine all apart, and put in new bushes where they were required, and patch the boilers.

Q. Had the engine been put together at that time?

A. It was being put together then.

Q. When was it completely put together?

A. I think there must have been two weeks after that.

Q. Had the patches then been made on the boiler; was it complete?

A. No, sir; they were working at them at the time; they were the

last thing done on the vessel; she went to sea as soon as they were completed.

Q. How long before that did the vessel come in from Washington?

266 A. She must have been there between two and three weeks before the time of the collision.

Q. When you brought her on from Washington she had no captain, nor engineer, nor anything else?

A. She could not come in without a captain or engineer.

Q. When you first bought her she had no men?

A. No, sir; I bought her in the Washington navy yard at auction, from the government.

Q. Where did you pick up Temple, the engineer?

A. In New York City.

Q. You took him on with you to bring the boat here?

A. He went on from here and had to see some folks in Baltimore, and went from there to Washington, and met me in Washington.

Q. Did you retain him on board during the whole period that this vessel was undergoing repairs?

A. Yes, sir; superintending the repairs.

Q. What portions of the vessel did you show these gentlemen when you went in there?

A. The engine cylinders were above the deck, and below she had this locomotive motion; it is called a sink—a motion the same as is used on locomotives.

Q. Who did you say got in?

A. I think Mr. Marshall got in with me; Woodfine was the first one.

267 Q. How far is the engine from the door by which you entered?

A. Some 25 feet, I think.

Q. Then it is clear at the end of this passage-way?

A. It makes a jdg into the mess-room; it is about half into the mess-room, and half with the place between the passage-ways.

Q. Forward of the engine how wide is the passage-way?

A. The passage-way does not run forward of the engine; it runs on the starboard and the port side of the engine; both these doors go into the mess-room at the end of the passage-way.

Q. It was the engine-room that was in front of the engine?

A. No, sir; the furnace-room was in front of the engine.

Q. So that nearly all the centre of the forward part of this house was closed in?

A. Yes, sir; the ceiling was all open though, and passages over to the boiler.

Q. Where was Woodfine's state-room?

A. The after part of the boat; he had two dead-lights in the stern, and the half of a sky-light to light the room; the other half of it went into the mess-room.

Q. Have you ever had any difficulty with the Cunard line?

A. No.

Q. Or with the steamer Corsica?

A. No.

Q. With any vessel connected with that line?

A. No, sir.

Q. Or with Mr. Cunard?

A. No; I had a little unpleasantness with Le Mesurier, the captain of the Corsica.

Q. What did that grow out of?

268 A. I don't know; a little annoyance I was put to on the way up and down.

Q. You have been with Captain Le Mesurier?

A. I have made a number of voyages with him, sir.

Q. When did you make your last voyage with him?

A. Last month—June—[June,] or May; I have been up here now for over five weeks; the passage before this I came up from Nassau; I have no ill-feeling against the Cunard company or the boat.

By the court:

Q. I understand you to say that those gentlemen, except Captain Woodfine, started from the Corsica when she began to move and went directly to the Relief?

A. Yes, sir; direct.

Q. Did you go along the bulkhead or around?

A. Along the bulkhead, a short cut.

Q. When you went on board of the Relief, you went directly into the engine-room?

A. Yes, sir; Woodfine followed me in.

Q. And then you called to the engineer?

A. Yes, sir.

Q. Was that before Hynes spoke to you about the collision?

A. Just the instant before.

Q. And before the engineer came you stepped out?

A. Yes, sir; stepped out quick.

Q. Was the first thing you did after you went into the engine-room the call the engineer?

269 A. Yes, sir; his name is Temple.

Re-direct:

Q. Those doors that enter that house, do they open on to the forward deck?

A. They are sliding-doors.

Q. When the doors are open, you walk right on to the forward deck?

A. Yes, sir.

Q. Do you know whether Woodfine has been in communication with the captain of the Corsica since that collision?

A. Yes, sir.

Q. You have seen them together?

A. Yes, sir; I saw them together on the quarter-deck of the Corsica. I thought it was rather strange, because they were at loggerheads sometime previously.

Q. Before that had they been at variance?

A. Yes, sir; at Nassau.

Q. Do you know whether Le Mesurier has had information that Woodfine was not on deck at the time of this collision?

A. I don't know.

Re-cross ex'n:

Q. You have not any unpleasantness with Captain Woodfine?

A. No, sir.

James Hynes recalled:

Ex'd by Mr. :

Q. About how far below the Cunard dock was the place where you saw the Corsica and the America in collision?

270 (Obj. to. Obj'n overruled.)

A. I should judge that from the Cunard dock down to the long dock—just looking at it—would be ¾th of a mile long.

Adjourned to Thursday, July 12th, 1866.

271 United States district court.—Before Hon. Judge Benedict.—Brooklyn, July 12th, 1866.

SAMUEL SCHUYLER }
vs.
THE CORSICA. }

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273 United States district court.—Before Hon. Judge Benedict.—Brooklyn, July 12th, 1866.

SAMUEL SCHUYLER }
vs.
THE CORSICA. }

Edward Cunard, a witness on behalf of respondent, being duly sworn, testified as follows:

Examined by Mr. Lord:

Q. You are the agent of the British and North American Royal Mail S. S. Co.?

A. Yes, sir.

Q. And you were so at the time of this collision between this Corsica and the America?

A. Yes, sir.

Q. You are the sole agent in this country of that line?

A. Yes, sir.

Q. The steamer Corsica belongs to that line?

A. Yes, sir.

Q. Had you anything to do with the engagement of a pilot for the Corsica at the time this collision happened?

A. Nothing.

Q. Had the owners anything to do with the engagement of that pilot?

A. No; there were no owners in this country, except myself.

274 Q. Had the captain, as far as you know, anything to do with the engagement or selection of the pilot?

A. No, sir; he had not.

Cross-examined by Mr. Van Santvoord:

Q. You are the general agent of the Corsica?

A. Yes, sir.

Q. Are there any other agents under you?

A. No, sir; except the clerks in the office.

Q. Has Mr. Franklin anything to do with it?

A. He is clerk in the office.

Q. Had you anything but a general direction of this boat?

A. I don't know how to answer that question.

Q. You don't attend to furnishing the supplies to the boat; you don't

attend to the receipt of the passage-money; you have nothing to do with the management of the ship?

A. Yes, sir; everything; I see and know everything that goes on; and even see to the ordering of the supplies, which are brought into me for my signature—the memoradum.

Q. Where were you in September, 1865?

A. I was in England, on the ocean, and in this country. I came from England in September.

Q. Was it not after this collision that you arrived in this country from England?

A. What was the date of the collision?

Q. The 9th of September. What was the date of your arrival here?

A. I arrived here sometime in September; I cannot say the exact day. I sailed from England on the 23d of September, and arrived here the first or second of October.

275 Q. How long had you been in England?

A. For six months; I left here the March preceding.

Re-direct:

Q. Who was left in charge of the agency during your absence?

A. Mr. Franklin was; he was a clerk, and I gave him that power. I think I left England on the 23d of September, as far as my memory serves me.

James Hynes, recalled on behalf of libellants, and further examined by Mr. Van Santvoord:

Q. (Handing plan to witness.) Is this a plan of the house on the deck of the Relief, made by you?

A. Yes, sir.

Q. What is the width of the passage on each side of that house?

A. I should think from three to three and a half feet.

Q. What is the length of the passage from the door back to the mess-room?

A. Somewhere in the neighborhood of 30 feet.

Q. Where was Woodfine at the time you called him out to see the collision?

A. Standing at the mess-room door; myself, Howell, and other parties were standing right by the door.

276 Q. As far as you know, were you the first man on the Relief who saw the Corsica?

A. I think I was, sir. (Plan marked Ex. "A" by the court.)

(Testimony on both sides closed, with the exception of the examination of Mr. Franklin, on behalf of respondent.)

Adjourned.

277 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms in the city of New York, on Friday, the twelfth day of April, in the year of our Lord one thousand eight hundred and sixty-seven:

Present, the Honorable Charles L. Benedict, dist. judge.

SAMUEL SCHUYLER
vs.
THE STEAM-PROPELLER "CORSICA," her engine, tackle, &c. } 19—264.

This case having been heard on the pleadings and proofs, and argued and submitted by the advocates for the respective parties, and, due de-

liberation being had in the premises, it is now ordered, adjudged, and decreed by the court that the libellant recover in this action against the steam-propeller Corsica, her engine, tackle, &c., the damages by him sustained by reason of the collision in the pleadings mentioned, together with his costs to be taxed, and that it be referred to a commissioner of this court to ascertain and compute the amount of such damages, and report thereon to the court with all convenient speed.

CHAS. L. BENEDICT.

278 (Endorsed:) Vol. 19. No. 264. United States district court for the southern district of New York. Samuel Schuyler vs. the st.-propeller Corsica, her engine, &c. C. Van Santvoord, pr. lib't. D. D. Lord, proctor for cl'ts. Int'y decree for lib'ts and order of ref'ce.
Filed the twelfth day of April, 1867.

279 U. S. district court.

SAMUEL SCHUYLER
vs.
THE STEAMER CORSICA.

No exceptions having been taken to the report of the commissioner of the amount of damages, the evidence taken before him on the assessment of damages is admitted by consent of parties.
April 2, 1868.

C. VAN SANTVOORD, *Pr. L'b't.*
D. D. LORD, *Proctor for Cl'ts.*

(Endorsed:) 19—264. U. S. district court. Samuel Schuyler vs. the steamer Corsica. Consent to admit test'y on assess. of damages.
Filed April 2, 1868.

280

281 District court of the United States for the southern district of New York.

SAMUEL SCHUYLER
vs.
THE STEAM-PROPELLER CORSICA, her engine, tackle, &c.
} Commissioner's report.

In pursuance of a decretal order made in the above-entitled cause, on the twelfth day of April, in the year of our Lord one thousand eight hundred and sixty-seven, by which, among other things, it was referred to the undersigned, one of the commissioners of this court, to ascertain and compute the amount due the libellant for damages by him sustained by reason of the collision in the pleadings mentioned, and to report thereon to this court with all convenient speed—

I, John A. Osborn, the commissioner, to whom the matter was referred, do report, that I have been attended by the proctor for the libellant and claimants, and have taken and examined the testimony offered in support of the libellant's claim for damages aforesaid, and do find that there is due to the libellant for such damages $30,500 $\frac{00}{}$, the sum of thirty thousand five hundred dollars.

Dated the 25th day of February, A. D. 1868.

All which is respectfully submitted.

JOHN A. OSBORN,
U. S. Commissioner.

C. VAN SANTVOORD, *Proctor for Libellant.*

282 (Indorsed:) Vol. 19. No. 264. United States district court for the southern district of New York. Samuel Schuyler vs. the steam-propeller "Corsica," &c. C. Van Santvoord, proctor for libel't. Commissioner's report. Ent'd order.
Filed the 29th day of Feb'y, 1868.

283 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms in the city of New York, on Monday, the ninth day of March, in the year of our Lord one thousand eight hundred and sixty-eight:
Present, the Honorable Samuel Blatchford, dist. judge.

SAMUEL SCHUYLER
vs.
THE STEAM-PROPELLER CORSICA, her engines, tackle, &c. } 19—264.

On reading and filing the report of John A. Osborn, esq., United States commissioner, to whom the above matter was referred, dated February 25, 1868, by which there is reported due the libellant for damages by collision in pleadings mentioned, the sum of thirty thousand five hundred $\frac{00}{100}$ dollars:
$30,500 00
On motion of Cornelius Van Santvoord, esq., proctor for the libellant, and no exception having been filed to said report, it is ordered that the report be in all things confirmed, and that the libellant recover in this action against the st.-propeller Corsica, &c., the amount reported due, together with his costs to be taxed; which costs have been taxed at the sum of seven hundred and seventy-eight dollars and
$778 57 fifty seven cents, and that said steam-propeller, her tackle, &c., be condemned therefor.

284 And on like motion, it is further ordered, that out of the proceeds of the stipulations of the claimants for costs and value when paid into the registry of the court, the clerk of this court pay to the libellant or his proctor, the amount reported due, together with his taxed costs.
And on like motion of Cornelius Van Santvoord, esq., proctor for libellant, it is further ordered that unless an appeal be taken to this decree within the time limited and prescribed by the rules and practice of this court, that the stipulators for costs and value, and that the clerk, after deducting the taxed costs of the officers of court, distribute the proceeds in satisfaction of this decree. SAM'L BLATCHFORD.

(Endorsed:) Vol. 19. No. 264. United States district court for the southern district of New York. Samuel Schuyler vs. the propeller Corsica, &c. C. Van Santvoord, proctor for libellant. Final decree in rem. on conformation of commissioner's report.
Filed and entered the ninth day of March, 1868.

285 District court of the United States for the so. district of New York.

SAMUEL SCHUYLER
ag'st.
THE STEAM-PROPELLER CORSICA; British & N. Am. R. M. Steam-Packet Co., cl'm'ts & resp'd'ts.

SIR: The respondents intend to appeal from the decree of the court in this cause.
New York, 12th March, 1868. D. D. LORD, *Proc. Resp'd'ts.*

C. VAN SANTVOORD, Esq., *Proc. Libell'ts.*
GEO. F. BETTS, Esq., *Clerk.*

(Endorsed:) U. S. district court. 19—264. Samuel Schuyler ag'st the steamship Corsica. No. of appeal. D. D. Lord, for resp'd'ts. Filed March 14th, 1868.

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287 Circuit court of the United States, southern district of New York.

THE STEAMSHIP "CORSICA;" British & North American Royal Mail Steam-Packet Comp'y, cl'm'ts, appellants,
ag'st
SAMUEL SCHUYLER, appellee.

To the honorable the circuit court of the United States for the southern district of New York in the second circuit:

The appeal of the above-named appellants respectfully shows, that on or about the seventh day of October, 1865, the above-named libellant exhibited his libel in the district court of the United States for the southern district of New York, against the said steamship "Corsica," claiming to recover forty-one thousand dollars for damages alleged to have been sustained by the steam-tug America, in consequence of a collision with the said steamship "Corsica," and thereupon the appellants filed their claim to the said steamship, giving stipulations for costs and
288 value on the sum of forty-five thousand dollars; that afterwards on the 22d day of November, 1865, the appellants filed their answer to the said libel.

And the said cause came on to be heard before the Honorable Charles L. Benedict, on the 18th day of April, 1866, and on the 12th day of April, 1867, the said judge made a decree condemning the said steamship "Corsica," to pay the damages claimed in the libel, and directing a reference to a commissioner of said court to ascertain the amount thereof, and on the twenty-fifth day of February, 1868, the commissioner to whom said reference was directed, reported for the damages sustained by said libellant the sum of thirty thousand five hundred dollars, and afterwards, the costs, having been taxed at seven hundred and seventy-eight $\frac{57}{100}$ dollars, a final decree was entered against these appellants on the ninth day of March, 1868.

The appellants are advised that the said decrees are erroneous, inasmuch as the said libellant is not entitled to recover against the said steamship "Corsica" the damages caused by said collision, and for these reasons the appellant appeals from the whole of said decrees, and
289 on said appeal they intend to have said cause heard anew in the circuit court, on the pleadings and proofs in the district court, and other proofs to be introduced in the said circuit court.

And they pray that the said record may be returned to the said circuit court, and that said decree may be reversed, or such decree thereupon may be made as to said circuit court shall seem just, and that the appellants may be condemned to pay to the appellants their costs and damages in the premises.

D. D. LORD,
Proc. Appellant & Advocate.

(Endorsed:) 19—264. U. S. circuit court, so. dist. of N. Y. Steamship Corsica; British & N. Am. R. M. Steam-Packet Company, appel'ts, ag'st Samuel Schuyler, appellee. Appeal. Filed March 16, 1868. D. D. Lord, for app'l'ts.

Due and timely service of a copy of within appeal is admitted.
Mar. 14th, '68.

C. VAN SANTVOORD.

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291 Circuit court of the United States of America for the southern district of New York, in the second circuit.

SAMUEL SCHUYLER, libellant, appellee,
vs.
THE STEAM-PROPELLER "CORSICA," HER engine, tackle &c.; the British & N'th Am'n Royal Mail Steam-Packet Company, cl't, appellant.

19—264. Bond for costs and damages on appeal.

Know all men by these presents, that we, the British and North American Royal Mail Steam-Packet Company, and Edward Cunard and James H. Banker, are held and firmly bound unto the above-named libellant & appellant in the sum of fifty thousand dollars, to be paid to the said libellant; for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the twentieth day of March, in the year of our Lord one thousand eight hundred and sixty-eight.

Whereas the above-named claimant hath prosecuted an appeal to the circuit court of the United States for the southern district of New York, in the second circuit, to reverse the decree rendered in the above-entitled suit by the judge of the district court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such, that if the above-named claimant shall prosecute its appeal to effect, and answer all damages and costs if it fail to make its appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

British & N. A. Royal Mail Steam-Packet Co.,
By E. CUNARD. [L. S.]
E. CUNARD. [L. S.]
JAMES H. BANKER. [L. S.]

Sealed and delivered, and taken and acknowledged, this 20th day of March, 1868, before me.

[SEAL.] PATRICK HOGAN, *Notary Public.*

292 UNITED STATES OF AMERICA,
Southern District of New York, ss:

Edward Cunard and James H. Banker, being duly sworn, each depose and says that he resides in the southern district of New York; that he is worth the sum of fifty thousand dollars over and above all his just debts and liabilities.

E. CUNARD.
JAMES H. BANKER.

Sworn to this twentieth day of March, A. D. 1868, before me.
PATRICK HOGAN, *Notary Public.*

(Indorsed:) Vol. 19, page 264. U. S. circuit court. The steam-propeller "Corsica," &c., her engine, &c.; the Br. & No. Am'n R. M. St. Packet Co., cl'ts, app'l't., vs. Samuel Schuyler, lib't, appellee. Bond for costs and damages on appeal. D. D. Lord, cl't & app'l't proctor.
Filed this 21st day of March, 1868.

Approved as to the sufficiency and acknowledgement.
C. VAN SANTVOORD,
Proctor for Lib'l't.

293 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the city hall in the city of New York, on Wednesday, the 3d day of June, in the year of our Lord one thousand eight hundred and sixty-eight:
Present, the Honorable Samuel Nelson, an associate justice of the Supreme Court of the United States.

SAMUEL SCHUYLER, lib'l't & appellee;
vs.
THE STEAM-PROPELLER CORSICA; THE British &c. North American Royal Mail Steam-Packet Co., claimants, appellants.

The appeal from the district court in the above case coming on to be heard, Mr. Van Santvoord is heard on the part of the libellant & respondent.
Mr. D. D. Lord is heard on part of claimant and appellant.
Cur. adv. vult.

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295 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the city hall in the city of New York, on Saturday, the 4th day of October, in the year of our Lord one thousand eight hundred and sixty-eight:
Present, the Honorable Samuel Nelson, an associate justice of the Supreme Court of the U. States.

SAMUEL SCHUYLER, libellant & appellee,
vs.
THE STEAM-PROPELLER CORSICA, HER engine, tackle, &c.; the British and North American Royal Mail Steam Packet Company, claimants & appellants.

This cause having been heard on the pleadings and proofs on the appeal of the British and North American Royal Mail Steam-Packet Company, the claimant & owners of the steam-propeller Corsica, her engine, tackle, &c., from the final decree of the district court of the

United States for the southern district of New York, and having been argued by the advocates of the respective parties, and deliberation having been had in the premises, it is now ordered, adjudged, and decreed that the libellant Samuel Schuyler recover against the said steam-propeller Corsica, her engine, tackle, &c., or her said claimant, thirty-one thousand two hundred and seventy-eight $\frac{57}{100}$ dollars, being the amount of damages by reason of the collision in the pleadings mentioned, and the costs of the libellant in the said district court as taxed in said court, which it was adjudged by said final decree of said
296 district court that the libellant recover against the steam-propeller Corsica, her engine, tackle, &c.

And it is further ordered, adjudged, & decreed that said libellant recover against said steam-propeller Corsica, her engine, tackle, &c., or her said claimant, as damages sustained by him by reason of said appeal of said claimant, the interest on the amount of said damages and costs so adjudged by said decree of said district court from the date of said decree in said district court as aforesaid, (9th March, 1868,) besides his costs on said appeal to this court as taxed, amounting together to the sum of fifteen hundred and thirty-six $\frac{26}{100}$, all of which said damages, costs, and interest amount in the aggregate to the sum of thirty-two thousand eight hundred and fourteen $\frac{83}{100}$ dollars, which it is hereby ordered, adjudged, and decreed, that the said libellant recover against the said steam-propeller Corsica, her engine, tackle, &c., or her said claimant.

(Endorsed:) U. S. circuit court, S. D. of New York. Samuel Schuyler, lib'l't & appellee, vs. the steam-propeller Corsica, her engine, tackle, &c.; the British & North American Royal Mail Steam-Packet Company, claimants & appellants. Decree. C. Van Santvoord, proctor for lib'l'ts & appellee.

Filed Oct. 24, '68.

297 U. S. Supreme Court.

THE STEAM-PROPELLER CORSICA, her tackle, &c.; the British, &c., North American Royal Mail Steam-Packet Company, claimants, appellees,
against
SAMUEL SCHUYLER, libellant, appellee.

The appeal of the above-named appellants respectfully shews, that on the seventh day of October, eighteen hundred and sixty-five, the above-named libellant exhibited his libel in the district court of the United States for the southern district of New York, against the appellants, praying, amongst other things, for reasons alleged in the libel, that the said steamship might be condemned and sold for the payment of certain damages alleged to have been sustained in consequence of a collision between the said steamboat America, and the costs in said libel mentioned.

That on the 22d day of November, eighteen hundred and sixty-five, the said appellants filed their claim and answer, to which the libellants filed a replication.

That the said cause came on to be heard before the Honorable Charles L. Benedict, upon the pleadings and proofs, who made a decree on the 12th day of April, eighteen hundred and sixty-seven, that the libel-
298 lant recover against the said steamship Corsica his damages

sustained [sustained] by reason of the collision in the pleadings mentioned, together with costs to be taxed, and that it be referred to a commissioner of the court to ascertain and compute the amount of such damages, and report thereon.

And the commissioner, before whom said reference was had, reported that there was due to the libellant, on the third day of March, eighteen hundred and sixty-eight, which was the date of his report, the sum of thirty thousand five hundred dollars.

And upon such report, a final decree was made by the said district court on the ninth day of March, 1868, for thirty-one thousand two hundred and seventy-eight dollars and fifty-seven cents, damages and costs.

That after said final decree, the said appellants duly appealed therefrom to the circuit court of the United States for the southern district of New York, and the said cause was thereupon removed into said circuit court where the same was heard; and afterwards, on the twenty-fourth day of October, 1868, the said circuit court made a final decree, affirming the decree of the district court with costs, which said decree of the circuit court is, as the appellants are advised, erroneous, and ought to be reversed.

Wherefore these appellants appeal from the whole of said decree
299 of said circuit court to the Supreme Court of the United States, and respectfully pray that the said decree of said circuit court, and the pleadings, testimony, and proceedings in said cause, may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew, and that the said decree of the said circuit court, and every part thereof, may be reversed, and a decree made dismissing said libel with costs, or such other decree may, as to the said Supreme Court shall seem just.

Dated New York, November 13th, 1868.

British & North American Royal Mail Steam-Packet Company,
By EDWARD CUNARD, *Agent.*

D. D. LORD,
Proctor for Appellants, & of Counsel.

(Endorsed:) U. S. Supreme Court. The steam-propeller Corsica, &c., appellants, against Samuel Schuyler, appellee. Appeal. D. D. Lord, for appellants.

Due service admitted this 12th Nov., 1868.
C. VAN SANTVOORD,
Proctor for Appellees.

Filed Nov. 14, '68.

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301 Circuit court of the United States of America for the southern district of New York, in the second circuit.

SAMUEL SCHUYLER, lib'l'nt & appellee,
vs.
THE STEAM-PROPELLER CORSICA, her tackle, &c.; the British & North American Royal Mail Steam-Packet Company, clm'ts & appellants.
} Bond for costs.

Know all men by these presents, that we, the British & North American Royal Mail Steam-Packet Company, and Edward Cunard, are held

and firmly bound unto the above-named Sam'l Schuyler, lib'l'nt & appellee in the sum of two hundred & fifty dollars, to be paid to the said libellant & appellee, for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated the 13th day of November, in the year of our Lord one thousand eight hundred and sixty-eight.

Whereas the above-named cl'm'ts & appellants have prosecuted an appeal to the Supreme Court of the United States, to reverse the decree rendered in the above-entitled suit by the judge of the circuit court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such, that if the above-named appellants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

British & North American Royal Mail Steam-Packet Co.,
By E. CUNARD.
E. CUNARD.

Sealed and delivered, and taken and acknowledged, this 13 day of Nov., 1868, before me.

KENNETH G. WHITE,
U. S. Commissioner.

302 UNITED STATES OF AMERICA,
Southern District of New York, ss:

Edward Cunard, being duly sworn, doth depose and say, that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

E. CUNARD.

Sworn to this 13th day of Nov., A. D. 1868, before me.
KENNETH G. WHITE,
U. S. Commissioner.

(Indorsed:) Vol. . Page . U. S. circuit court. Sam'l Schuyler vs. st.-propeller Corsica, her tackle, &c. Bond for costs on , proctor.

Filed this 13th day of Nov., 1868.

303 By the Honorable Samuel Nelson, one of the judges of the circuit court of the United States for the southern district of New York, in the second circuit:

To Samuel Schuyler:

Whereas the British, &c., North American Royal Mail Steam-Packet Company, claimants of the steam-propeller Corsica, her tackle, &c., have lately appealed to the Supreme Court from a decree lately rendered in the circuit court of the United States for the southern district of New York, in the second circuit, made in favor of you, the said Samuel Schuyler, against the said steamship Corsica, her tackle, &c., and have filed the security required by law; you are therefore hereby cited to appear before the said Supreme Court at the City of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of New York, in the southern district of New York, in the second circuit, the thirteenth day of November, one thousand eight hundred and sixty-eight, and of the independence of the United States the ninety-third.

S. NELSON.

304 (Endorsed:) U. S. Supreme Court. The steam-propeller Corsica, &c., appellants, against Samuel Schuyler. Citation. D. D. Lord, for appellants.

Due service of the within admitted this 12th Nov., 1868.

C. VAN SANTVOORD,
Proctor for Appellees.

Filed Nov. 14, '68.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Kenneth G. White, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, do hereby certify that the foregoing pages, numbered from one to 304, inclusive, contain a true and complete transcript of the record and proceedings had in said court, in the case of Samuel Schuyler against the st.-propeller Corsica, her engine, tackle, &c., as the same remain of record and on file in said office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed at the city of New York, in the southern district of New York, in the second circuit, this 9th day of Dec'r, in the year of our Lord, one thousand eight hundred and sixty-eight, and of the independence of the United States the ninety-third.

[SEAL.] KENNETH G. WHITE, *Clerk.*

Corsica on first discovering
the America.

4 Points.
3 Points.
2 Points.
first Course.

Corsica just before
Starboarding.

America just before
Corsica Starboarded.

America when
first seen.

Supreme Court of the U. S.

THE STEAM PROPELLER CORSICA, HER TACKLE &c. THE BRITISH AND NORTH AMERICAN ROYAL MAIL STEAM PACKET COMPANY.

Claimants, Appellants.

vs.

SAMUEL SCHUYLER,

Libellant, Appellee.

POINTS FOR CLAIMANTS APPELLANTS.

FACTS.

On the 9th September, 1865, at about half past 12 P. M., the Corsica left her dock at Jersey City bound to sea.

She was in charge of a branch pilot duly licensed by the New-York Commissioners, who was not selected by her owners, but took charge of her under the Regulations of the Commissioners in conformity with the Act of Congress.

This pilot was stationed on the starboard and the captain on the port side of the bridge, the first Officer was on the forecastle as look out, and other officers were stationed so as to transmit orders from the bridge to the wheel house, and to the engine room; two men were in charge of the wheel, a third was present to assist if required, an officer was at the con to see that orders were carried out. A full watch of engineers was in charge of the engine, and every possible precaution was taken to avoid accidents of every sort.

2. The tide was towards the end of flood and the day clear. The Steamer went with the stream head foremost, and after getting clear of the pier, the tide set her some distance up the river, so that she had to go nearly to the middle in order to turn round to get her head towards the South. In completing this turn, she approached to about 300 feet of the end of her pier, and then proceeded in a Southerly direction nearly parallel with the outer line of piers on the Jersey shore, and at a rate of five or six knots.

3. When about opposite Sussex Street, Jersey City, the Captain from the port side of the bridge discovered the America just as she came out from between the gunboats Florida and Rhode Island, anchored to the East of the middle of the river, and nearly abreast of Pier No. 1 New-York City, he immediately called the pilot's attention to her, she was seen also by the first officer, who noticed the pilot observing her.

4. The America was steering so as to pass some distance ahead of the Corsica, and the pilot of the Steamer ordered the helm a starboard to go behind her and leave her intended course free.

When the Corsica had changed about two points towards the East, and had gone a little over two lengths, say 500 feet; the America, being directly ahead, suddenly began to turn her head towards the North. Upon this the Corsica instantly ordered her helm steadied to stop her, shear towards the East, reversed her engine full speed; and then ordered her helm hard a starboard.

5. The last order to starboard, did not produce any appreciable effect, but the America was so near, that although the Corsica's speed was reduced to three miles, she ran into her.

6. When the two vessels met their courses although in opposite directions were so nearly parallel, that the bluff of the Corsica's starboard bow, struck the starboard guard of the America just forward of the paddle box, her stem struck the paddle box about four and half feet from the side, and shoved it aft, breaking her shaft and part of her wheel, but without touching her hull.

Point I.—The only charges of mismanagement are, that the Corsica was starboarded just before the accident, when so near that the America could not get out of her way, and that she did not starboard and reverse her engines higher up the river (Fol. 7 and 8.)

It will be found that the only important objection is the last starboarding, which was just before the accident.

It cannot be objected that the Corsica did not reverse earlier, because the America was bound to keep out of the way, and if she had done so there would have been no necessity for the Corsica to reverse at any time.

In fact, she did reverse before the last order to starboard, which, as will be seen, was on the first appearance of danger.

Le Mesurier, fol. 162, 163.
McKay, fol. 198.
Johnson, fol. 231.
Fenney.
Beam, fol. 215.

The testimony that the Corsica was under some headway up to the time of collision is not inconsistent with the fact that she reversed at the time stated.

It is proved also by the concurrent testimony of all on the Corsica's deck, who were bound to notice her course, that she was starboarded when some distance higher up the river, and when the America had just passed the gunboats.

Le Mesurier, fol 162, 179 180.
McKay, fol. 203.
Johnson, fol. 231.

This testimony, also, is not contradicted, as none of the America's hands say anything of the Corsica's course, or seem to have given any attention to it until their alleged orders to stop, slow and back.

Wagner alone was in a condition to observe it. Hicks and Shook were busy aft; Dillon was lying amidships, and Wolcot sitting aft on a chain box. No objection can therefore be founded on a supposed omission of the Corsica to starboard at this time, nor can any be founded on her having done so, as it is conceded that it would have been a proper manoeuvre.

Libel, fol, 7, 8.
Wagner, fol. 43.

This starboarding must not be confounded with the subsequent starboarding.

The charge is thus reduced to the single objection that the Corsica ran into the America by putting her helm hard a starboard just before the collision, and after the America had stopped, leaving her room to pass ahead.

Point II.—As the America was bound by the rule of the road to keep out of the Corsica's way, and as in violation of that rule she undertook to cross her bows, and persisted in doing so until it became risky (Wagner, fol. 35), she has the burthen of proving affirmatively that she stopped, and that she did so in time to leave a free passage for the Corsica, before she can require from the Corsica an explanation of her consequent change of helm.

The libellants, in order to do this, insist that when they backed the first time the Corsica was three or more lengths farther up the river, and would have passed a length ahead if her course had been continued.

This, it is submitted, is not sustained by the proof, and is demonstrably incorrect.

Point III.—It is not disputed that the two vessels met on nearly parallel, opposite courses, so that the Corsica with the bluff of her starboard bow swept off the starboard paddle-box of the America without any direct injury to her hull, and that the first touch of the Corsica was about 50 feet abaft the America's stem.

The two vessels were each about 200 feet long; so that if the Corsica, when her helm was put hard a-starboard, could have cleared the America, as the libellants insist, she must have diverged at least fifty feet from her course under this change of helm, and if she could have cleared her by a length she must have diverged 250 feet; and if, as libellants insist, the courses of the two vessels were at right angles, she must have come around eight points before the collision.

It will appear that the America did not stop or leave a free passage for the Corsica, for if she had, no change of course which the Corsica could have made under the starboarding, could have brought about the collision.

It is proved that when the Corsica's wheel is amidships, and she is going six knots, it takes 15 to 18 seconds to change her course one point, and 20 to 25 seconds to change it two points, and that in changing her direction one point she would run from one and a half to one and three-quarters, and two lengths for two points.

Le Mesurier, fol. 203.
McKay, fol. 203.

It is proved also that before the Corsica's helm was starboarded her engines were reversed, and that such reversal counteracts her starboard helm; the action of the screw then throwing her stern to port, and thus preventing her head from turning to port, as it would otherwise do with a starboard helm.

Le Mesurier, fol. 185.
McKay, fol. 204.

Consequently, it is fair to infer that she would not, while backing, change her course a point within the time and distance stated by Capt. Le Mesurier and Mr. McKay.

And it is proved that in one length half a point does not make a divergence of over 12 feet.

Le Mesurier, fol. 171.

Point IV.—The libellants have not shown that when the Corsica made the change of helm complained of, she had either time or space to make such a change in her course as to produce the collision.

The time intervening between this order and the collision is given as follows:

LeMesurier—less than thirty seconds, (fol. 167)—not half a minute by the watch, (fol. 182.)

McKay—before he could walk sixty feet, (fol. 199.)

Beam—the backing of the Corsica which was ordered before her change of helm on the Corsica, had not continued over half a minute, (fol. 215.)

The starboarding on the America is stated by libellant's witnesses to have occurred as follows:

Wagner—(fol. 36) just before last order to back.

Hicks—(fol. 66), just after this order—after making two turns back, (fol. 73.)

Dillon—(fol. 90,) after bell to stop backing, Corsica was still heading straight down the river.

Shook—when bells rang to slow and stop, Corsica was heading straight down the river, (fol. 134.)

The collision was half, or three-quarters of a minute after he got on the America's guards, (fol. 137)—this was just as the America's bell rang to back the last time, and coincident with the Corsica's starboarding.

The backing under this second order did not occupy much over half a minute.

Wagner—collision almost immediately after, (fol. 66.)

Hicks—not over one-and-a-half to two minutes, at the outside, (fol. 73.)

Vanduzer—only four or five revolutions, (fol. 86.)

Wolcot—(fol. 46,) America made six revolutions per minute.

Shook—crash came one-half or three-quarters of a minute after he walked to the gangway of America, (fol. 143,) and he went there at once on hearing second bells to back, (fol. 142.)

Sampson—(fol. 151,) very short time, very few moments.

Summary.

LeMesurier—not over half a minute.

Beam—not over half a minute

Shook—not over half a minute.

Hicks—six revolutions, less two, one-third of a minute.

Vanduzer—four revolutions, three-quarters of a minute.

The distance of the two vessels when the Corsica's order, "hard a starboard" was given, are stated as follows:

Wagner—(fol. 42,) two or three lengths, but cannot estimate certainly.

Hicks—(fol. 64 and fol. 67,) *perhaps not quite* three lengths.

Dillon—(fol. 92,) *perhaps* one length, or a little more.

Walcot—(fol. 105–107,) one length.

Shook—(fol. 145,) three to four lengths, when order to slow, which was a little before the starboarding.

McKay—(fol. 198,) not over one hundred feet, say a half length.

LeMesurier—(fol. 164,) not over one length.

Johnson—two lengths, when America was found to be porting, which was before the last order to starboard, (fol. 232.)

Sampson—one length, very short distance, (fol. 167.)

The shortness of the intervening distance is confirmed by the fact, that although the Captain's order "hard a starboard" was given in an ordinary voice, intended to be heard by the officers at the wheel-house, not over one hundred and fifty feet from where he stood, it was distinctly heard by all the hands of the America.

It must be conceded that the time and distance was not sufficient to admit of such change as would bring the Corsica two hundred and fifty feet or even fifty feet out of her course, or from a course at right angles to the America's into one nearly parallel with it.

On the testimony, then, it is clear that the collision must have been due to some other cause than the starboarding by the Corsica.

Point V.—Taking the time and distance according to the clear preponderance of testimony, both of libellants as well as claimants, the accident could not have happened unless the America had been right ahead of the Corsica when the order to starboard was given.

This is apparent from the small divergence which could have been produced by that order in the Corsica's course.

It is proved also by express testimony:

Le Mesurier—(fol. 164), very nearly right ahead.

McKay—(fol. 198), right ahead.

Johnson—(fol. 232), very near ahead when the America ported, which was before the starboarding.

Shook—(fol. 137), the Corsica was heading right for America when he got to gangway.

Wolcott—(fol. 119), when he got to the gangway, Corsica heading right for them.

Wagner, Hicks and Dillon say she would have cleared by one length; but if their testimony were more positive than they have ventured to make it, the preponderance would be against them.

No one on the America was in a situation to perceive accurately the direction of the Corsica, while those on the Corsica could not be mistaken in it.

That the America was directly ahead is confirmed also by her backing, for which there would have been no cause if she had not got dangerously near to the Corsica's course.

If she had stern way, as alleged by two of the America's hands, then at the collision she must have receded from the Corsica's course, and was consequently nearer to it when the Corsica starboarded than at the collision.

That she was ahead of the Corsica corresponds with the courses given for the Corsica from the first. When first seen the America was between three and four points off her port bow; under her first starboarding she changed two points, leaving only one or two points to be made up by the America's progress, which was crossing hers at a considerable angle.

Le Mesurier, fol. 179.
McKay, fol. 196.

The story that the America stopped when within half a length of the Corsica is improbable—for her speed was eight knots (Hicks, fol. 83), while the Corsica's was not over six (Le Mesurier, McKay.)

If, then, the America was within a half length, or even one full length, of the Corsica's course, she could easily have crossed her bows if this ship had been three lengths, or even two lengths above her in the river, as some of the America's witnesses have stated.

Point VI.—Under the circumstances proved as to time and distance, the collision could not have happened as it did, without a change of course in the America. Because the Corsica, it is shown, could not have sheered over a point, and the combined sheer of the two vessels must have been nearly eight points, according to statements of the libellant.

That there was such a change of the America is proved by the concurrent testimony of all who were on the Corsica's deck.

Le Mesurier, fol. 163.
McKay, fol. 199.
Johnson, fol. 231.
Woodford, fol. 237.

Wagner is the only man on the America who was in a position or had any cause to watch her course before the alleged stoppage; and he does not deny a change of course, but only a change of helm; but her course may have changed without a change of helm —in fact, a constant change of helm is necessary in order to avoid a change of course.

It is possible that the change testified to by the witnesses on the Corsica may have been caused by the first reversal of the America's engines.

This would be a natural effect of such a reversal, even before it was sufficient to stop her headway—especially if her helm had been carried a little a-starboard, as would be necessary to counteract the flood tide in crossing the river.

Wagner admits that the backing may have produced such an effect (fol. 45.)

The time when the America's hands say that they first backed was just before the Corsica steadied and reversed. This corcorresponds with the time when the change of course was first noticed by the witnesses on the Corsica.

The witnesses on the America must have imputed to the Corsica the change in their own vessel—they were the more likely to do this from their entire ignorance of the compass.

Point VII.—The America must have had headway at the time when the Corsica starboarded, if not up to the time of collision.

It is to be inferred that she was under way, from the fact of her having changed her course, as she must have done, in order to meet the Corsica on a directly opposite course.

It is proved also, by express testimony.

LeMesurier—(fol. 164), she had headway at the collision, but he can't say whether her engines were stopped.

Ward—(fol. 192), according to his best judgment she was going a mile or two at the collision.

McKay—(fol. 199.)

Johnson—(fol. 332,) she had headway, but thinks engines were not working.

Woodfine—(fol. 238.) she could not have stopped more than a second, if at all.

This testimony is contradicted by witnesses of the libellants, but several of these had no such opportunities to observe, as entitles their testimony to reliance.

Wolcott—did not notice the America's course until after the Corsica had starboarded, (fol. 107.)

The America's yawl boat may not have run under her guards until the collision.

Dillon—a mere fireman was standing amidships, and judged from the way the America was backing when he could not see either her working beam or engine, (fol. 99.)

These witnesses may have judged from the quick water thrown forward by the paddles or by the motion of the water, both of which are not reliable tests, as a vessel may have no motion through the water while making considerable progress with the tide—and if, as is supposed, her course was not directly across the river as Libellants insist, but pointed up stream she would naturally feel the flood tide, which is always strong in the North River—this might easily have been carrying her along at the rate of two or more knots, even after she seemed to lie dead in the water and while the quick water from her paddles was thrown forward to her stem. This is possibly the solution of the conflict of testimony on this point.

It is apparent however that the backing was not sufficient to stop her way.

It is to be borne in mind that the starboarding complained of was before the last backing of the America—and if the America's way was stopped when the Corsica starboarded, it must have been by the effect of the first backing only.

It was to be expected that some proof would have been given by Van Duzen, the America's engineer on duty, as to the number of revolutions made under this order, but Libellants did not see fit to examine him on this point—although they did enquire as to the revolutions made on the subsequent backing.

It appears, however, that it would take from four to five revolutions to stop her when going five or six knots, (fol. 86.)

Wolcott says the America can make, while reversing, six revolutions per minute, but this is sharp work, as they have to be made by a bar moved by hand, (fols. 125–126.)

Wagner, who gave all the orders, says that he gave the order to stop backing in half a minute after the order to back, (fol. 55.)

See also testimony cited in Point IV.

Hicks—the Captain says the America must have been going eight knots, (fol. 83).

Now, if it would take five revolutions, or one minute, to stop the America when her speed was only six knots, it is manifest that when her speed was eight knots, she could not have been stopped in half a minute.

But the most conclusive proof is that the Corsica could not, under this starboarding, have gone more than twenty-four feet out of her course, and she struck the America fifty feet abaft the stem. The America therefore must have gone this distance at least after the Corsica starboarded, and, if she was, as libellants say, a length from the Corsica's course, she must have gone two hundred feet more after the starboarding which is almost as fast as the Corsica was going at this time.

Point VIII.—When the Corsica's pilot gave the order to starboard, the circumstances, so far as they could be ascertained from her deck, indicated that it was the measure best calculated to avert disaster.

The America had evidently been steering to cross his bows, she had got just up to his course, and was still going on, but had so changed her head as to indicate uncertainty of purpose—on the first indication, he had stopped and backed, and the reversal of his engines always threw his head to starboard.

He was thus placed in the following perplexity:

If he kept his course, he would have struck the America a more direct blow, and about twelve feet nearer her stem.

LeMesurier, fo. 171.

Even if he could have cleared her by half a length, and was one length farthest up the river, he could not have got past her in safety, unless his speed had been much greater than hers; because, in order to do this, he would have had to run two lengths before she could have made one length—so that it would be unsafe unless the America had evidently stopped her headway, which, as has been shewn, was not the case.

If he had ported, the America, being still under way, he could not be certain she would not crowd him so far over to the Jersey shore as to put him in danger of running into the wharves or into the schooner lying to the South and West of him as far as Ellis's Island.

He acted prudently, therefore, in starboarding, as he thereby counteracted the effect of reversing his engine, and if the effect were greater than this, it would be advantageous in changing the blow from a direct to an oblique direction.

If the America had stopped entirely she was too near and too much ahead to allow the Corsica to clear her by porting.

The result shewed the correctness of his judgment as he avoided the America's hull, and if he had been a length further up the river he would have cleared her entirely.

Sampson—(p. 151.)

Point IX.—The America was responsible for the consequence of attempting to cross ahead of the Corsica.

The Corsica had the right of way.

Wagner, the America's pilot knew this. (fo. 52.)

When he first saw the Corsica he must have been opposite to Sussex street, for he says she was below her dock, which is only one pier above Sussex street. (fo. 50.)

As the Corsica was then under way, there was no reason why he should not have steered to go astern instead of ahead of her, and this would have been the direct course to his dock, which was at Sussex street.

The allegation that it was necessary to go South of his dock to avoid vessels at anchor is no excuse for attempting to cross ahead of a steamer in motion and having the right of way; besides, it is not proved that there were any vessels opposite to or North of Sussex street. Wagner admits that he kept on this course until it became risky (fol. 35.)

It is unfair to impose on the Corsica the consequence even of an incorrect judgment in a perplexity brought about by action of the libellants themselves.

This perplexity is not diminished even if it should have been proved that the America's headway was stopped, as some of their witnesses alleged.

Point X.—If the America was justified in heading to cross in front of the Corsica, she was bound, on finding she could not do it, to stop a sufficient distance short of the course of the Corsica to allow her, not merely room to get past, but room enough to leave no uncertainty as to its sufficiency, or as to her having given up the design to pass in front.

Point XI.—The America is responsible also for not having kept a good look out.

The Corsica is shewn to have been going under a starboard helm from just after the time when the America discovered her, and to have changed two points.

The entire charge of navigating the America was left to Wagner, a man who did not know even the points of the compass, and he did not notice this change although he was trying to cross ahead of the Corsica when he knew he was bound to keep out of her way.

Point XII.—The decree below should be reversed, and a decree rendered for restitution of the amount paid by appellants, with interest from time of payment.

D. D. LORD,
for Appellants.

U. S. Supreme Court.

THE STEAM PROPELLER "CORSICA," HER TACKLE, &c., THE BRITISH AND NORTH AMERICAN STEAM PACKET COMPANY,

Claimants and Appellants,

vs.

SAMUEL SCHUYLER,

Libellant and Appellee.

STATEMENT OF THE CASE

AND

POINTS OF THE LIBELLANT & APPELLEE.

C. VAN SANTVOORD,
Of Counsel.

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Claimants and Appellants,

vs.

SAMUEL SCHUYLER,

Libellant and Appellee.

No. 171.

STATEMENT OF THE CASE AND POINTS OF THE LIBELLANT AND APPELLEE.

Appeal by the Claimants of the said Propeller "Corsica" from the Decree of the Circuit Court of the U. S. for the Southern District of New-York, affirming the Decree of the District Court for the S. D. of New-York in favor of the Appellee for the recovery of damages occasioned by a collision of said propeller with the Appellee's steamboat "America."

The libel against the "Corsica" was filed in the District Court, Oct. 7, 1865. Found at folios 1 to 10.

The answer of the claimant was filed Nov. 22, 1865. Found at folios 25 to 28.

I.—The collision took place on the North River, Sep. 9, 1865, between the said libellant's steamboat "America" and the steam propeller "Corsica," opposite the Morris Canal Basin, between the coal wharf at the southern extremity of Jersey City and the wharves of the Central Railroad Company of New Jersey, about one-third the distance across the river from the Jersey shore.

(See the map of the Cities of New-York, &c., from official surveys by R. Rosa, Civil Engineer, for localities and bearings.)

The wharf of the "Corsica" is at the foot of York Street, Jersey City, the first pier below the Jersey City Ferry; next below are the two wharves of the Cunard steamers, at the foot of Grand Street; then comes the pier at which the "America" took in water and coaled, at the foot of Sussex Street. Between Sussex Street and the Morris Canal Basin are three blocks, including the coal wharf at the southernmost extremity of Jersey City.

The U. S. steamer "Florida" was at anchor off the Battery, about off Castle Garden, below the line of pier No. 1, on the New-York side, and about a ship's length or so from the middle of the river toward New-York. Above her was the U. S. steamer "Rhode Island" at anchor, more to the eastward. The tide was toward the last of the flood, and the sterns of both these vessels were standing up the river. That of the "Florida" was inclined toward the New-York shore.

(See the deposition of Lloyd G. Samson, from the "Florida," the best witness as to the position of these vessels, fols. 145, 146, 148.)

The "America" after leaving boats which she had towed down the Hudson from Albany, in the East River, came round into the North River bound for her pier at Jersey City, at the foot of Sussex Street.

When off south of Castle Garden (in the mouth of the East River.) she stopped to haul in hawsers which she had used in towing, and then started for her pier at the foot of Sussex Street, Jersey City, aforesaid, proceeding across and up the river, quartering across, heading toward a point on the Jersey Shore, about midway between her pier at the foot of Sussex Street, and the Morris Canal Basin, which last is next south of the Coal Docks.

The "America" proceeded on this course bearing to a point somewhat to the southward of a direct course to the Sussex Street pier, to get inside of vessels at anchor from the Jersey City Ferry, down to opposite her pier close in shore.

This is her course as described by the witnesses from the "America," who do not undertake to describe her course by the compass, because they did not sail by the compass.

A reference to the Map of Rosa, or the Coast Survey Map, will show that the course described by these witnesses was about northwest, the course of the river there being a little East of North as you go up.

The Sailing Master of the "Florida" describes her course thus: "When I first observed the 'America' she had just rounded the Battery. Her course was diagonally across the river, about headed for a little below the Cunard Company's Pier, at Jersey City. She crossed just above us, between us and the U. S. Steamer Rhode Island. She passed astern of us as we were tailing up the river. The Rhode Island was further up the river than we were, and at anchor" (Fol. 146.)

After crossing above the "Florida," the "Corsica" was seen from the "America" coming down the river, straight down on the New Jersey side of the river, and as they were approaching on courses crossing each

other, to avoid apprehended risk of collision from continuance on a course across the bow of the "Corsica," the engine of the "America" was stopped and reversed, and after her headway in the water was stopped, the bell was rung to stop backing. After this bell to stop backing had been rung, the pilot and master of the "America" saw a man on the "Corsica" signalling by his hand to aft on the "Corsica" to starboard the helm, and heard a hail on the "Corsica" to starboard, which was followed by a change of direction of the "Corsica" to eastward from her course down the river, on which she would have passed the "America" at a safe distance, without any possibility of a collision; and although the engine of the "America" was again reversed, giving her sternway, the collision followed this change of direction of the "Corsica" within a few seconds, the starboard bow and stem of the "Corsica" striking against the starboard side of the "America," near her forward gangway, about 40 feet from her stem in an oblique direction, cutting into her guard, through her guard timbers, forward wheel beam, breaking into her paddle box and wheel, and bringing up against her shaft, which it split in the inboard journal, and carried aft to the aft-deck beam; this bringing up against the iron shaft, fifteen inches in diameter, being all that saved the hull from being cut into, and the boat from being sunk.

Joseph Wagner, pilot of the "America," on duty, fols. 32 to 60.

Read, fols. 34 into 43, 44, 45, &c.; 50, 52, 53. As to the hail, 57, 58.

Peter B. Hicks, Master of the "America, fols. 60 to 84; Read, 60 to 68; 66, 70, 78, 79, 80, &c.

William A. Van Duzen, Engineer on duty, fols. 84 into 88; Read, 85, 87

John Dillon, a hand forward on the "America," fols. 88 to 98; Read, 88 into 92.

Lansing Miller, Pilot of the ferryboat "New-York," on Jersey City Ferry, fols. 98 to 106.

To relative courses some time before the collision, and to there being nothing in the way of the "Corsica" continuing her course or porting, and to there being plenty of water to the westward of her course, as to which last, see Coast Survey Map for the soundings.

Israel S. Wolcott, First Engineer of "America," on deck, 106 to 132; Read, 106 to 110; 111 into 112, to foot of page; x 113, 114, &c., 120; Speed, 129.

William Van Duzen recalled, fol. 131.

John W. Shook, a Pilot on the "America," fols. 132 to 144; Read, fols. 133 to 138; Vessels, &c., 139–140; x 142–143.

The above testimony of the witnesses from the "America," is confirmed in essential particulars by Lloyd G. Samson, the Sailing-Master of the "Florida," who was in a favorable position to see the approach and manœuvres of the two vessels, and a competent witness.

Dep. taken 21st Dec. 1865, fols. 145–153; Read, fol. 145 into 147.

The falling off to southward, he speaks of, which he supposed might have been caused by the action of the helm, just about the moment of the collision, the witnesses from the "America," who testify that her helm was not changed from amidships, show was after the second reversal of the engine, and was caused by the blow of the collision. See Peter Hicks, fol. 74; where "crowded to *fast*," should be crowded to *port*.

The facts established by the above testimony show that the collision was caused by the "Corsica's" putting

her helm astarboard and sheering to eastward when within three or four of her lengths above the "America," from a course to pass down to westward.

II.—The defensive allegations in the answer, with its blanks, are mostly indefinite, as usual, in cases where the respondent is uncertain what his defence is, or whether he has any; and the testimony on the part of the "Corsica," so far as in conflict with that on the part of the "America," is not consistent with itself, and is contradictory, and not entitled to credit.

1. It is admitted, however, by the witnesses from the "Corsica," that after seeing the "America," the "Corsica," before her course was changed to the eastward by starboarding her helm, was on a course well over on the New Jersey side of the river near the line of the ends of the piers, and standing straight down the river.

2. It is admitted by her Master that the "Corsica" was as far down as off the wharf at foot of Sussex Street, (which is the second wharf below the "Corsica's," at foot of York Street, Jersey City,) before the "America" was first seen from the "Corsica." He claims to have seen her when there.

   Le Mesurier, folios 162, 173, 179.

3. It is also admitted by these witnesses that when the "America" was first seen from the "Corsica" the "America" was off the port bow of the "Cor-

sica," and was at all times to port, down to the time of the collision.

Mesurier, three to three and a half points off when first seen, (fol. 167.)

McKay, the first officer on the look-out, when he first saw her, two points on the port bow, (fol. 196.)

Johnson, the pilot, when he first saw her, three to four points, (fol. 231.)

4. The testimony of Mesurier, the Master of the "Corsica," as to what was done on the "Corsica" after seeing the "America," and what followed, shows that the "Corsica" was not starboarded so far off from the "America," nor so soon after he says he saw her as his testimony supposes.

According to his testimony in folios 162 to 165, after seeing the "America" he called the pilot's attention to her, who said "wheel aport," and at the same time waved his hand toward the port side of the ship, as a signal to the officer near the wheel to *starboard*. This order to *starboard* was executed and the "Corsica" paid off two points in coming nearly twice her head and length, in going about 440 feet. Then an order was given to steady, the "America" being then about south-east by half east, about a point on the port bow of the "Corsica." Next the order was given to slow and back the engine as quick as he could speak it, and this order was obeyed as quick as it could be done. The "Corsica's" rate of speed at the time that order was given being probably about five or six knots through the water, then he saw the collision was inevitable, and he himself gave

the order to starboard, (a second order which appears from the context and other testimony to have been an order to hard-a-starboard,) and the pilot gave it too; he could not be certain which gave it first, the "America" being then nearly right ahead, if anything, slightly on the port bow, not more than a couple of hundred feet off. That this order to starboard, (the second order to starboard or hard-a-starboard,) if it changed her course anything it was very slightly; he did not notice that the ship had lost her way, she answered her rudder slowly, and the time was so short she could not alter her course a quarter or half a point at the very out-side.

The order to starboard (referring to the second order to which he testifies) was given in an ordinary voice. He called out "starboard." He could not say whether he moved his hand or not.

When he first saw her, he testifies at folio 167, the "America" was off his port bow, at the very outside three points, nearer three points than three and a half points.

5. Upon this testimony it will be observed,

First.—That it involves an admission that the "Corsica's" course could be and was changed to eastward by starboarding, as much as two points from a course straight down the river, in going twice her length, about 440 feet, and that this change of the "Corsica" of two points to Eastward brought the "America," (which, when he first saw her, was nearer three points, as he believed, than three and a half off his port bow,) to about one point off his

port bow, when the order to steady was given, which was followed by orders to slow, stop and back as quick as could be done; then he saw the collision was inevitable.

Second.—By a necessary implication that this order to starboard, on which the "Corsica" paid off two points, was when in close proximity to the "America," within two or three of the "Corsica's" lengths, or about that higher up the river than the "America" off her port bow.

Third.—That if he had seen the "America" further off, when on her course from south of Castle Garden, as she was coming from between the Government ships, proceeding diagonally across and up, this order to starboad was not given as soon as he saw her, nor until some time after.

Fourth.—The singularity of the manner in which the pilot, according to Mesurier's testimony, gave the order to starboard—"Wheel aport"—and at the same time waving his hand to the port side of the ship.

Fifth.—That the facts testified to by Mesurier, as done on the "Corsica," on the order to starboard, and the time and distance required to materially change the course of the "Corsica" to Eastward, and as to what followed are entirely consistent with the testimony from the "America," that the course of the "Corsica" straight down the river, on which she would have passed the "America," then stopping, at a safe distance, was changed to Eastward by

starboarding when within two or three, or three or four lengths higher up, so as to cause the collision.

Sixth.— That these facts, so testified to by Mesurier as to what was done on the "Corsica," and what followed, are wholly inconsistent with his other testimony, at folio 179, that when he first saw and called the attention of the pilot to the "America," and the order was given to starboard on the "Corsica," and she paid off two points to Eastward, the "America" was off from half to probably two-thirds of a mile, and (fol. 168) was heading directly across the river, if not to the South of West, calling the course of the river North-east by South and West; and that when the order to steady was given (fol. 163) the "America's" course was changed by porting so as to throw her bow toward the North-west, at a distance off from the "Corsica" of a little over a quarter of a mile, 500 or 600 yards probably.

A comparison of the distance off, from which he testifies that the "America" ported, turning her bow to northwest, with the distance traversed by him while starboarding, and paying off two points, and to the time of the collision shows that the starboarding was long after the porting to which he testifies.

6. McKay, the first officer on forward, chiefly to look out, testifies that when he first saw the "America," she was about two points on the port bow, perhaps 400 or 500 yards off, in a line off Castle Garden,

just as she came out between two vessels, the "Corsica" being one-third off the Jersey shore, he thinks a little less out and a little above the *Central Ferry;* that the "America" appeared to be crossing his bows, steering as if she wanted to cross his bows, a little to southward of right angles to his course; shortly after he saw her, he heard an order to starboard, and he paid off, perhaps two points, then he heard an order to steady in less than a minute; after the order to steady, he heard the order to slow, stop and back at full speed, then an order to hard-a-starboard; immediately after the order, to back, almost in the same words, the "America," at that time, not over 100 feet off at the last order or a little less, the "America," at the time of the last order being right ahead, then he left the forecastle for his safety. (Fols. 196 to 199.)

This testimony shows that the "Corsica" was further down and in closer proximity to the "America," when the first order to starboard was given and executed, followed by the collision, than testified to by Mesurier.

7. Mesurier, apparently with a view to show that the helm of the "Corsica" was put a starboard so much higher up the river than the "America," that she could pass on that course under the stern of the "America," if the "America" had continued on her course across the bow of the "Corsica" without giving way or stopping, testifies to two starboardings to one as made immediately after seeing the "America," which changed the "Corsica's" course two points, and then to another as if made after a considerable interval, immediately

before the collision, which last he supposed did not change her course much, if any, to eastward.

The testimony is not only in conflict with the testimony of the witnesses on the part of the "America" to a material change of course of the "Corsica" from two or three or four lengths of the "Corsica" above the "America" by starboarding from a course straight down the river on which she would have passed at a safe distance, but it is in conflict with the testimony of other witnesses from the Corsica.

This testimony of John Cashman, the quartermaster at the wheel, shows that there was no sensible interval between the starboarding and hard-a starboarding, the two orders given immediately before the collision, and that the starboarding and hard-a-starboarding was a continuous movement.

Contrary to Mesurier, he also testifies that the "Corsica" minds her helm quick, and could be changed to port or starboard two or three points in going two lengths.

See his testimony on Cross, folio 219.

8. This testimony of Mesurier to the manner in which the pilot gave the order to starboard, "wheel aport," and at the same time waved his hand to the port side of the ship, was with the same apparent object.

The witnesses on the "America" had testified to seeing a man on the "Corsica" wave his hand a-starboard and heard a hail on the "Corsica" a-starboard as the "America" was holding up to let the "Corsica" pass, which was followed by the change of the "Corsica's" course from a course

straight down to eastward, so as to cause the collision.

The above testimony of Mesurier was apparently to show that there was no waving of the hand a-starboard or hail to starboard at the time of the starboarding, on which the course of the "Corsica" was materially changed, and to refer this testimony on the "America" to a hail at the time of the second starboarding or hard-a-starboard when he testifies the pilot called out a-starboard, but whether by motion of the hand or not he could not say.

Now as to this, Johnson, the pilot, testifies at fol. 234, that when he gave the order to starboard, he said aport, but motioned with his hand a-starboard. The Captain asked him if he did not mean a-starboard, and he told him yes; and he was pretty well convinced that the Captain repeated the order, the one he had given, the first order, the one he had given by saying aport, but waving his hand a-starboard.

9. Mesurier and McKay say that the "America," at some time before the collision, changed her course from a course more directly across the river. Mesurier, at a distance of over a quarter of a mile off, (in the place above referred to,) to a course more up the river, which they call porting, and seem to impute this as a fault to the "America."

The testimony of McKay (199–200) shows that this was a continuous course more up the river than straight across, and from a point, at least, as early as the order to starboard on the "Corsica."

The pilot, Johnson, did not notice the change which he calls porting, until after the order to

starboard, and the "Corsica" had paid off two points (fol. 231). This change, to which he testifies as possibly two points, exactly commensurate with that of the "Corsica" starboarding, is sufficiently accounted for by the change in relative position by change of the "Corsica" two points.

The course or direction of the "America," which these witnesses call porting, corresponds with the course of the "America" from off south of Castle Garden to the place of the collision, diagonally across and up the river, as testified to by the witnesses on the part of the "America."

If the "America" had ported from a point so distant, as testified to by Mesurier and McKay, as the two vessels were approaching, it would not be imputable to the "America" as a fault.

It being established by the witnesses on the part of the "America," that she had stopped and reversed her engine, so that she had no way in the water, and stopped backing to let the "Corsica" pass before the "Corsica" had changed her course to starboard from a course down the river upon which she would have cleared the "America" at a safe distance, the "America" could not have ported or changed her course near the place of collision.

III.—The testimony of the claimant's witness, John J. Woodfine, from the "Relief," is not referred to, because his testimony as to where he was on the "Relief," and as to his seeing the "Corsica" from the time she left her wharf until the collision, is disproved by the testi-

mony of James Haynes, the Agent, and John S. Howell, the owner of the "Relief," showing that he was in a place on the "Relief" where it was impossible he could see either of the vessels as they were approaching, and that he saw nothing of the circumstances of the collision until after they were afoul, when he was called out of the house on deck by Haynes to see it

IV.—As to the Nautical Rule,

1. On the respective courses of the steamers as they were approaching, the "Corsica" proceeding down past the pier to which the "America" was bound and heading straight down the river, and the "America" standing across and up the river on a course crossing that of the "Corsica," it was the duty of the "America" to keep out of the way, and of the "Corsica" to keep her course.

   a. See Act of Congress to prevent collisions on the water, April 29, 1864. Statutes at Large, p. 58, Arts. 14 and 18.

   b. Articles 14 and 18 English and French Regulations for preventing collisions at sea, in the same words.

   c. The Rose, 2 W. Rob. 5, for the import of the expression "give way."

   The expression in the above rule "keep out of the way" is of the same import, and made it obligatory on the "America" as having the "Corsica" on her starboard side, to stop and back, to let the "Corsica" pass on her course, and then going under her stern and not across the "Corsica's" bow.

The "America's" pilot understood this, (fol. 52,) and if the master and pilot of the "Corsica" had been as well instructed there would have been no collision.

2. Upon the courses tried by the Maritime rule, as well settled and understood before the enactment of said Act of Congress, the "Corsica" falls into the same condemnation for starboarding, when she should have kept on her course or ported.

The Duke of Sussex, 1, Wm. Robinson, 274.
McCord *vs.* The Johnson and Burden, in this Court, and cases cited by the libellant.
1 R. S. N. Y., 3 Ed. 859.

V.—There can be no pretence of special circumstances in this case, rendering a departure from the above rule necessary in order to avoid immediate danger; and exceptions are not favored, because increasing the risks of navigation.

See St. John *vs.* Paine, 10 How., S.C.R., 582.

VI.—The testimony of the pilot, Johnson, shows that the starboarding ordered by him was prompted and promoted by the master of the "Corsica," who called the attention of the pilot to the "America," but, as the whole drift of the testimony shows, without apprising him of her situation at the time, stopped, after having stopped and reversed her engine, and this wrong manœuvre was as much the act of the master as the pilot.

The actual situation of the "America," as having stopped and backed to let the "Corsica" pass, could

not have failed to be seen from the "Corsica," if an ordinary look-out had been kept on the "Corsica," or without the greatest carelessness of observation, and this default is chargeable to the master and crew of the "Corsica," and not to the pilot.

If the pilot had been apprized of the situation, it is difficult to believe that he would have starboarded.

The case is not, therefore, one in which exemption could be claimed by reason of the "Corsica" being under the charge of a licensed pilot, compulsively imposed by law under English authorities, maintaining such exemptions where the casualty is through the sole fault of the pilot.

VII.—As understood by the counsel for the libellant—subject, of course, to correction—there was no compulsive obligation of the master of the "Corsica" to accept the services of the pilot licensed under the laws of the State of New-York, who came on board when the "Corsica" was lying at her wharf at Jersey City, outside the jurisdiction of the State of New-York, which were then and there accepted.

1. See Act of Congress of March 2, 1837, 5 Statutes at Large, 153.

The 29th section of the Pilot Act of New-York, 3d April, 1857, requiring all masters of foreign vessels, and vessels from a foreign port, and all vessels sailing under register, bound to or from the port of New-York by the way of Sandy Hook, to take a licensed pilot, or, in case of refusal to take such pilot, to pay the pilotage as if one had been employed, and that such pilotage shall be paid to the pilot first speaking or offering his ser-

vices, was not intended to limit the range of choice secured by the Act of Congress. It does not declare that the master shall pay pilotage to the first pilot speaking or offering his services, in case of refusal to employ him, but it provides for such payment only in case of refusal to employ a licensed pilot. On this view of the Act, there is nothing to prevent the shipmaster from engaging the services, by previous arrangement or otherwise, of any duly licensed pilot, either under laws of New-York or of New Jersey.

2. Assuming that the shipowner has a range of choice, his being required to take a licensed pilot would not exempt him from liability, even although it were compulsive to take a licensed pilot.

See note to sec. 456, A. Story on Agency.

The 28th By-Law referred to by claimant's Counsel is a mere regulation as between the pilots themselves, which imposes no liability upon the shipmaster, and is of no force except between pilots under the New-York Commission.

3. The Laws of New-York and regulations made thereunder, can have no extra territorial effect, and are for that reason void and of no effect, so far as they assume to regulate or interfere in any manner with the selection of a pilot by a ship bound in before entering the waters within the territorial jurisdiction of the State.

Peterson *vs.* Walsh, 1 Daly's Rep., 182.

For a like reason they cannot be regarded as controlling the master of a vessel in the selection of a pilot to take his vessel to sea from a wharf at

Jersey City, where he is within the territorial jurisdiction of New Jersey.

See agreement between New-York and New Jersey Commissioners, 1 R. S., 5 Ed., p. 91, Act 3, sec. 3, sub. 3.

VIII.—The American Courts have not hitherto followed the English decisions, conforming to express statutory enactments of no force except as part of peculiar English Municipal Law, exempting the ship from liability for damage from collision through fault of the pilot, and it is now finally settled in this Court that the ship is not exonerated from liability for injuries, though the result wholly of the pilot's negligence.

The "China," 7 Wallace, 53.

IX.—There is no question here as to the amount of the damages.

X.—The Decree of the Circuit Court should be affirmed.

C. VAN SANTVOORD,

Att'y and of Counsel for the Appellee.

U. S. Circuit Court.

SOUTHERN DISTRICT OF NEW-YORK.

SAMUEL SCHUYLER,

vs.

THE PROPELLER CORSICA.

Opinion.

This was an appeal by the owners of the "Corsica" from a decision of Judge Benedict, holding her liable to the libellant, the owner of the steam-tug "America," for the damages occasioned by a collision between the two vessels.

NELSON, *C. J.*—The collision in this case occurred off the Battery, in the North River, near the Jersey shore, or about one-third of the way from it across the river, and opposite the Morris Canal basin, or coal wharfs near by, between the propeller "Corsica" and the steamer "America," on the 9th of September, 1865. It took place in mid-day, in an open river, with clear weather, and in plain sight of each other. The case has been ably and earnestly argued, as might well be expected from the character of the counsel, the amount of property concerned, and especially from the fact that it involves, to a considerable degree, the intelligence and skill of those in charge of the navigation of the vessels. We have studied the case, therefore, with a care and attention corresponding with its magnitude and the interests involved, and shall proceed to state in a few words the conclusions arrived at. The "Corsica" was descending the river, having come out of her dock next below the Jersey City Ferry, going out to sea, some three hundred yards off the Jersey shore—the "America" had come in from the East River, having rounded the Battery, and about off Castle Garden, shaped her course diagonally across the river to

reach her dock at the foot of Sussex Street, on the Jersey shore, heading, however, somewhat south of it for the purpose of getting inside of vessels usually anchored outside or in front, and then moving along the shore or docks up to it. This was the relative position of the two vessels when they were discovered by the hands on board of each other respectively. The "America" had reached the middle of the river, or thereabouts, when this discovery was made. There is some conflict in the testimony as to the exact distance the "Corsica" was up the river above the "America," at this time—she was still descending on her track already stated, along the Jersey shore—but the better opinion, we think, is that she was some three or four times her length above the "America." The "America" having continued a short distance on her course, apprehending danger in attempting to cross the bows of the "Corsica," stopped and backed, until she had sternway on in the water, which, upon the evidence, would, beyond all doubt, have avoided a collision; but, unfortunately, about the same time, or a little later, the "Corsica" starboarded her helm, turning her course eastward, directly toward the "America," and leading inevitably to the disaster, her starboard bow striking against the starboard side of the "America," near her forward gangway, in an oblique direction, inflicting severe injury. The proof is clear that if the "Corsica" had kept her course down the shore, no collision could have taken place; and also, that there was room between her and the shore to have ported her helm, and to have passed even further inward. The error of the pilot and master of the "Corsica" consists in not observing the rule of navigation as established by law, that is, Article 14: "If two ships under steam are crossing so as to involve a risk of collision, the ship which has the other on her starboard, shall keep out of the way of the other." Under this rule the burden of avoiding the collision rested upon the "America," and she took the proper measures to have discharged this duty. Article 18 provides that when, by the above rules, one of

the ships is to keep out of the way, the other shall keep her course, subject to the next article, (19,) which provides, in obeying these rules, regard shall be had to all dangers of the navigation, and also to any special circumstances that may exist in the particular case, rendering a departure from them necessary to avoid immediate danger. The Counsel for the "Corsica" has strongly urged that this vessel, under the existing circumstances, comes within the qualification, and that the pilot or master had a right to assume the "America" intended to cross his bows, in which event a collision would have certainly followed if the "Corsica" had not starboarded her helm. We do not doubt but that the pilot and master acted honestly under this belief when the order to starboard was given; but we cannot forget, and they should not have forgotten, that it was the duty of the "America" to give way, and that of their vessel to keep her course, and as there was opportunity for the "America" to take measures in fulfilment of this duty, it was a fault in the pilot and master not to have acted on this view. It was the departure from the rule that embarrassed the "America" and led to the disaster. Acting under the rule, and carrying out its injunction, she had disabled herself from remedying the error committed by the "Corsica." She had stopped her headway, and was lying helpless in the water. Inasmuch as the movements she adopted, as we have seen, would have prevented the misfortune, to permit special circumstances in the case, to modify or render them inefficient, would be such an administration of the rules as would operate to entrap the responsible vessel. We have heretofore determined not to adopt the principle that exempts the master and owner, where the vessel is under the charge of a licensed pilot, as applied in some cases in the English Admiralty till otherwise instructed by the Supreme Court.

Decree below affirmed

For libellant, Mr. Van Santvoord; for appellant, Mr. Lord.